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

FORM 10-Q

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

For the quarterly period ended March 31, 2023

OR

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

For the transition period from _____to_____.

Commission File Number: 001-39094

PHATHOM PHARMACEUTICALS, INC.

(Exact name of Registrant as specified in its charter)

Delaware	**82-4151574**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
100 Campus Drive, Suite 102 Florham Park, New Jersey	**07932**
(Address of principal executive offices)	**(Zip Code)**

Registrant's telephone number, including area code: (877) 742-8466

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.0001 par value per share	PHAT	Nasdaq Global Select Market

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

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

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

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

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

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

As of May 8, 2023, the registrant had 43,614,075 shares of common stock ($0.0001 par value) outstanding.

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements (unaudited)

PHATHOM PHARMACEUTICALS, INC.
Balance Sheets
(Unaudited)
(in thousands, except share and par value amounts)

	March 31, 2023	December 31, 2022
Assets		
Current assets:		
Cash and cash equivalents	$ 129,574	$ 155,385
Prepaid expenses and other current assets	10,269	5,127
Total current assets	139,843	160,512
Property, plant and equipment, net	1,275	1,207
Operating lease right-of-use assets	2,088	2,287
Restricted cash	505	505
Other long-term assets	299	299
Total assets	$ 144,010	$ 164,810
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable (including related party amounts of $78 and $35, respectively)	$ 4,805	$ 9,997
Accrued expenses (including related party amounts of $2,608 and $2,499, respectively)	8,015	14,678
Accrued interest	911	854
Operating lease liabilities, current	712	708
Total current liabilities	14,443	26,237
Long-term debt, net of discount	96,638	95,264
Revenue interest financing liability	114,679	109,525
Operating lease liabilities	945	1,098
Other long-term liabilities	7,500	7,500
Total liabilities	234,205	239,624
Commitments and contingencies (Note 4)		
Stockholders' equity:		
Preferred stock, $0.0001 par value; authorized shares — 40,000,000 at March 31, 2023 and December 31, 2022; no shares issued and outstanding at March 31, 2023 and December 31, 2022	—	—
Common stock, $0.0001 par value; authorized shares — 400,000,000 at March 31, 2023 and December 31, 2022; issued shares — 43,602,984 and 41,723,308 at March 31, 2023 and December 31, 2022, respectively; outstanding shares — 43,571,140 and 41,468,871 at March 31, 2023 and December 31, 2022, respectively	4	3
Treasury stock — 19 shares at March 31, 2023 and December 31, 2022, respectively	—	—
Additional paid-in capital	674,708	652,276
Accumulated deficit	(764,907)	(727,093)
Total stockholders' (deficit) equity	(90,195)	(74,814)
Total liabilities and stockholders' equity	$ 144,010	$ 164,810

See accompanying notes.

PHATHOM PHARMACEUTICALS, INC.
Statements of Operations and Comprehensive Loss
(Unaudited)
(in thousands, except share and per share amounts)

	Three Months Ended March 31,	
	2023	**2022**
Operating expenses:		
Research and development (includes related party amounts of $175 and $1,430, respectively)	$ 11,479	$ 17,660
General and administrative (includes related party amounts of $3 and $0, respectively)	18,598	20,246
Total operating expenses	30,077	37,906
Loss from operations	(30,077)	(37,906)
Other income (expense):		
Interest income	1,460	7
Interest expense	(9,217)	(2,759)
Other income (expense)	20	(7)
Total other expense	(7,737)	(2,759)
Net loss and comprehensive loss	$ (37,814)	$ (40,665)
Net loss per share, basic and diluted	$ (0.89)	$ (1.07)
Weighted-average shares of common stock outstanding, basic and diluted	42,354,520	38,036,960

See accompanying notes.

PHATHOM PHARMACEUTICALS, INC.
Statements of Stockholders' Equity (Deficit)
(Unaudited)
(in thousands, except share amounts)

	Common Stock		Treasury Stock	Additional Paid-in	Accumulated	Total Stockholders'
	Shares	Amount	Shares	Capital	Deficit	Equity
Balance at December 31, 2022	41,468,871	3	19	652,276	(727,093)	(74,814)
401(k) matching contribution	52,130	—	—	456	—	456
Vesting of restricted shares and restricted stock units	414,119	—	—	—	—	—
Stock-based compensation	—	—	—	7,048	—	7,048
ESPP shares issued	121,801	—	—	856	—	856
Issuance of common stock under ATM facility	1,514,219	1	—	14,072	—	14,073
Net loss	—	—	—	—	(37,814)	(37,814)
Balance at March 31, 2023	43,571,140	$ 4	19	$ 674,708	$ (764,907)	$ (90,195)

	Common Stock		Treasury Stock	Additional Paid-in	Accumulated	Total Stockholders'
	Shares	Amount	Shares	Capital	Deficit	Equity
Balance at December 31, 2021	30,511,226	3	1	601,523	(529,370)	72,156
Cashless exercise of common stock warrants	7,359,285	—	18	—	—	—
401(k) matching contribution	16,756	—	—	254	—	254
Vesting of restricted shares and restricted stock units	222,595	—	—	—	—	—
Stock-based compensation	—	—	—	5,775	—	5,775
ESPP shares issued	39,951	—	—	515	—	515
Net loss	—	—	—	—	(40,665)	(40,665)
Balance at March 31, 2022	38,149,813	$ 3	19	$ 608,067	$ (570,035)	$ 38,035

See accompanying notes.

PHATHOM PHARMACEUTICALS, INC.
Statements of Cash Flows
(Unaudited)
(in thousands)

	Three Months Ended March 31,	
	2023	**2022**
Cash flows from operating activities		
Net loss	$ (37,814)	$ (40,665)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	146	128
Stock-based compensation	7,048	5,775
Issuance of PIK interest debt	877	848
Accrued interest on revenue interest financing liability	5,154	—
Amortization of debt discount	496	518
Other	763	591
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	(5,143)	(4,384)
Accounts payable and accrued expenses (includes changes in related party amounts of $137 and $2,719, respectively)	(11,303)	(6,075)
Accrued clinical trial expenses	—	(1,402)
Accrued interest	57	4
Operating right-of-use assets and lease liabilities	50	22
Other long-term assets	—	(117)
Net cash used in operating activities	(39,669)	(44,757)
Cash flows from investing activities		
Cash paid for property, plant and equipment	(214)	(67)
Net cash used in investing activities	(214)	(67)
Cash flows from financing activities		
Net proceeds from issuance of common stock under ATM facility	14,072	—
Net cash provided by financing activities	14,072	—
Net decrease in cash and cash equivalents and restricted cash	(25,811)	(44,824)
Cash and cash equivalents and restricted cash – beginning of period	155,890	183,419
Cash and cash equivalents and restricted cash – end of period	$ 130,079	$ 138,595
Supplemental disclosure of cash flow information		
Interest paid	$ 2,546	$ 1,388
Supplemental disclosure of noncash investing and financing activities		
Property and equipment purchases included in accounts payable and accrued expenses	$ —	$ 120
Settlement of ESPP liability in common stock	$ 856	$ 515
Settlement of 401(k) liability in common stock	$ 456	$ 254

See accompanying notes.

1. Organization, Basis of Presentation and Summary of Significant Accounting Policies

Organization and Basis of Presentation

Phathom Pharmaceuticals, Inc., or the Company or Phathom, was incorporated in the state of Delaware in January 2018. The Company is a biopharmaceutical company focused on developing and commercializing novel treatments for gastrointestinal diseases. The Company's financial statements are prepared in accordance with U.S. generally accepted accounting principles, or GAAP.

Liquidity and Capital Resources

From inception to March 31, 2023, the Company has devoted substantially all of its efforts to organizing and staffing the Company, business planning, raising capital, in-licensing its initial product candidate, vonoprazan, meeting with regulatory authorities, managing the clinical trials of vonoprazan, preparing for commercialization of its initial products containing vonoprazan, and providing other general and administrative support for these operations. The Company has a limited operating history, has never generated any revenue, and the sales and income potential of its business is unproven. The Company has incurred net losses and negative cash flows from operating activities since its inception and expects to continue to incur additional net losses in the future as it continues to develop and prepares for commercialization of vonoprazan. From inception to March 31, 2023, the Company has funded its operations through the issuance of convertible promissory notes, commercial bank debt, revenue interest financing debt, the sale of 10,997,630 shares of common stock for net proceeds of approximately $191.5 million in its 2019 IPO, the sale of 2,250,000 shares of common stock for net proceeds of approximately $88.6 million in its December 2020 follow-on public offering, the sale of 3,929,116 shares of common stock for net proceeds of approximately $38.7 million in its issuances of common stock pursuant to the Open Market Sale Agreement℠, or the Sales Agreement, with Jefferies LLC, or the Sales Agent, under which the Company may, from time to time, sell shares of its common stock having an aggregate offering price of up to $125.0 million, or the ATM Offering, through March 31, 2023.

The accompanying financial statements have been prepared assuming the Company will continue as a going concern, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business, and do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets or amounts and classification of liabilities in accordance with GAAP. Management is required to perform a two-step analysis over the Company's ability to continue as a going concern. Management must first evaluate whether there are conditions and events that raise substantial doubt about the Company's ability to continue as a going concern (Step 1). If management concludes that substantial doubt is raised, management is also required to consider whether its plans alleviate that doubt (Step 2).

Management believes that it has sufficient working capital on hand to fund operations through at least the next twelve months from the date these financial statements were issued. There can be no assurance that the Company will be successful in acquiring additional funding, if needed, that the Company's projections of its future working capital needs will prove accurate, or that any additional funding would be sufficient to continue operations in future years.

Use of Estimates

The preparation of the Company's financial statements requires it to make estimates and assumptions that impact the reported amounts of assets, liabilities and expenses and the disclosure of contingent assets and liabilities in the Company's financial statements and accompanying notes. The most significant estimates in the Company's financial statements relate to accruals for research and development expenses and the valuation of various equity instruments. Although these estimates are based on the Company's knowledge of current events and actions it may undertake in the future, actual results could differ materially from those estimates and assumptions.

Fair Value Measurements

The accounting guidance defines fair value, establishes a consistent framework for measuring fair value and expands disclosure for each major asset and liability category measured at fair value on either a recurring or non-recurring basis. Fair value is defined as an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the accounting guidance establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value as follows:

Level 1: Observable inputs such as quoted prices in active markets.

Level 2: Inputs, other than the quoted prices in active markets that are observable either directly or indirectly.

Level 3: Unobservable inputs in which there is little or no market data, which require the reporting entity to develop its own assumptions.

The carrying amounts of the Company's financial instruments, including cash and cash equivalents, are classified within the Level 1 designation discussed above, while prepaid and other current assets, accounts payable, and accrued liabilities, approximate fair value due to their short maturities.

The Company has no financial assets measured at fair value on a recurring basis. None of the Company's non-financial assets or liabilities are recorded at fair value on a non-recurring basis. No transfers between levels have occurred during the periods presented.

As of March 31, 2023, the estimated fair value of the Company's long-term debt approximated the carrying amount given its floating interest rate basis. The fair value of the Company's long-term debt was estimated for disclosure purposes only and was determined based on quoted market data for valuation, and thus categorized as Level 2 in the fair value hierarchy.

Cash and Cash Equivalents

The Company considers all highly liquid investments with original maturities of three months or less when purchased to be cash equivalents. Cash and cash equivalents include cash in readily available checking accounts and money market funds.

Concentrations of Credit Risk

Financial instruments that potentially subject the Company to significant concentrations of credit risk consist primarily of cash and cash equivalents. The Company maintains deposits in federally insured financial institutions in excess of federally insured limits. The Company has not experienced any losses in such accounts and management believes that the Company is not exposed to significant credit risk due to the financial position of the depository institutions in which those deposits are held.

Property, Plant, and Equipment, Net

Property, plant and equipment are recorded at cost, less accumulated depreciation. Depreciation expense is recognized using the straight-line method over the useful life of the asset. Computer equipment and related software are depreciated over two to three years. Furniture and fixtures are depreciated over three years. Leasehold improvements are amortized over the lesser of the lease term or the estimated useful lives of the related assets. Expenditures for repairs and maintenance of assets are charged to expense as incurred. Upon retirement or sale, the cost and related accumulated depreciation of assets disposed of are removed from the accounts and any resulting gain or loss is included in loss from operations.

Impairment of Long-Lived Assets

The Company reviews long-lived assets, including property, plant and equipment, for impairment whenever events or changes in business circumstances indicate that the carrying amount of the assets may not be fully recoverable. An impairment loss would be recognized when estimated undiscounted future cash flows expected to result from the use of the asset and its eventual disposition are less than the carrying amount. The impairment loss, if recognized, would be based on the excess of the carrying value of the impaired asset over its respective fair value. No impairment losses have been recorded through March 31, 2023.

Leases

At the inception of a contractual arrangement, the Company determines whether the contract contains a lease by assessing whether there is an identified asset and whether the contract conveys the right to control the use of the identified asset in exchange for consideration over a period of time. If both criteria are met, the Company records the associated lease liability and corresponding right-of-use asset upon commencement of the lease using the implicit rate or a discount rate based on a credit-adjusted secured borrowing rate commensurate with the term of the lease. The Company additionally evaluates leases at their inception to determine if they are to be accounted for as an operating lease or a finance lease. A lease is accounted for as a finance lease if it meets one of the following five criteria: the lease has a purchase option that is reasonably certain of being exercised, the present value of the future cash flows is substantially all of the fair market value of the underlying asset, the lease term is for a significant portion of the remaining economic life of the underlying asset, the title to the underlying asset transfers at the end of the lease term, or if the underlying asset is of such a specialized nature that it is expected to have no alternative uses to the lessor at the end of the term. Leases that do not meet the finance lease criteria are accounted for as an operating lease. Operating lease assets represent a right to use an underlying asset for the lease term and operating lease liabilities represent an obligation to make lease payments arising from the lease. Operating lease liabilities with a term greater than one year and their corresponding right-of-use assets are recognized on the balance sheet at the commencement date of the lease based on the present value of lease payments over the expected lease term. Certain adjustments to the right-of-use asset may be required for items such as initial direct costs paid or incentives received. As the Company's leases do not typically provide an implicit rate, the Company utilizes the appropriate incremental borrowing rate, determined as the rate of interest that the Company would have to pay to borrow on a collateralized basis over a similar term and in a similar economic environment. Lease cost is recognized on a straight-line basis over the lease term and variable lease payments are recognized as operating expenses in the period in which the obligation for those payments is incurred. Variable lease payments primarily include common area maintenance, utilities, real estate taxes, insurance, and other operating costs that are passed on from the lessor in proportion to the space leased by the Company. The Company has elected the practical expedient to not separate between lease and non-lease components.

Revenue Interest Financing Liability

The Company entered into a revenue interest financing agreement, or the Revenue Interest Financing Agreement, with entities managed or advised by NovaQuest Capital Management, or NQ, Sagard Holdings Manager LP, or Sagard, and Hercules Capital, Inc., or Hercules, together with NQ and Sagard, the Initial Investors, in which the Company received funds in return for royalties on net sales of products containing vonoprazan. The net proceeds received under the transaction were recognized as short-term and long-term liabilities with interest expense based on an imputed effective rate derived from the expected future payments. The Company recalculates the effective interest rate each period based on the current carrying value and the revised estimated future payments. Changes in future payments from previous estimates are included in current and future financing expense.

Research and Development Expenses and Accruals

All research and development costs are expensed in the period incurred and consist primarily of salaries, payroll taxes, employee benefits, stock-based compensation charges for those individuals involved in research and development efforts, external research and development costs incurred under agreements with contract research organizations, or CROs, and consultants to conduct and support the Company's ongoing clinical trials of vonoprazan, and costs related to manufacturing vonoprazan for clinical trials.

The Company has entered into various research and development contracts with clinical research organizations, clinical manufacturing organizations and other companies. Payments for these activities are based on the terms of the individual agreements, which may differ from the pattern of costs incurred, and payments made in advance of or after performance are reflected in the accompanying balance sheets as prepaid expenses or accrued liabilities, respectively. The Company records accruals for estimated costs incurred for ongoing research and development activities. When evaluating the adequacy of the accrued liabilities, the Company analyzes progress of the services, including the phase or completion of events, invoices received and contracted costs. Significant judgments and estimates may be made in determining the prepaid or accrued balances at the end of any reporting period. Actual results could differ from the Company's estimates.

In-Process Research and Development

The Company evaluates whether acquired intangible assets are a business under applicable accounting standards. Additionally, the Company evaluates whether the acquired assets have a future alternative use. Intangible assets that do not have future alternative use are considered acquired in-process research and development. When the acquired in-process research and development assets are not part of a business combination, the value of the consideration paid is expensed on the acquisition date. Future costs to develop these assets are recorded to research and development expense as they are incurred.

General and Administrative Expenses

General and administrative expenses consist of salaries, stock-based compensation, facilities and third-party expenses. General and administrative expenses are associated with the activities of the commercial, executive, finance, accounting, information technology, legal, medical affairs and human resource functions.

Stock-Based Compensation

Stock-based compensation expense represents the cost of the grant date fair value of equity awards recognized over the requisite service period of the awards (generally the vesting period) on a straight-line basis with forfeitures recognized as they occur.

The Company also maintains an employee stock purchase program, or ESPP, under which it may issue shares. The Company estimates the fair value of shares that will be issued under the ESPP, and of stock options using the Black-Scholes valuation model, which requires the use of estimates. The Company recognizes stock-based compensation cost for shares that it will issue under the ESPP on a straight-line basis over the requisite service period of the award.

Income Taxes

The Company accounts for income taxes under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements. Under this method, deferred tax assets and liabilities are determined on the basis of the differences between the financial statements and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in the statement of operations in the period that includes the enactment date.

The Company recognizes net deferred tax assets to the extent that the Company believes these assets are more likely than not to be realized. In making such a determination, management considers all available positive and negative evidence, including future reversals of existing taxable temporary differences, projected future taxable income, tax-planning strategies, and results of recent operations. If management determines that the Company would be able to realize its deferred tax assets in the future in excess of their net recorded amount, management would make an adjustment to the deferred tax asset valuation allowance, which would reduce the provision for income taxes.

The Company records uncertain tax positions on the basis of a two-step process whereby (i) management determines whether it is more likely than not that the tax positions will be sustained on the basis of the technical merits of the position and (ii) for those tax positions that meet the more-likely-than-not recognition threshold, management recognizes the largest amount of tax benefit that is more than 50 percent likely to be realized upon ultimate settlement with the related tax authority. The Company recognizes interest and penalties related to unrecognized tax benefits within income tax expense. Any accrued interest and penalties are included within the related tax liability.

Beginning in 2022, the Tax Cuts and Jobs Act, or TCJA, eliminates the option to deduct research and development expenditures currently and requires taxpayers to amortize domestic and foreign research and development expenditures over 5 years and 15 years, respectively. The requirement did not impact cash from operations in the current period.

Comprehensive Loss

Comprehensive loss is defined as a change in equity during a period from transactions and other events and circumstances from non-owner sources. The Company's comprehensive loss was the same as its reported net loss for all periods presented.

Segment Reporting

Operating segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision maker in making decisions on how to allocate resources and assess performance. The Company views its operations and manages its business as one operating segment.

Net Loss Per Share

Basic net loss per share is computed by dividing the net loss by the weighted-average number of common shares outstanding for the period, without consideration for potentially dilutive securities. For the three months ended March 31, 2023 and 2022, the Company has excluded weighted-average unvested shares of 132,514 and 1,022,885, respectively, from the weighted-average number of common shares outstanding. Diluted net loss per share is computed by dividing the net loss by the weighted-average number of common shares and dilutive common stock equivalents outstanding for the period determined using the treasury-stock and if-converted methods. Dilutive common stock equivalents are comprised of unvested common stock, options and warrants. For the periods presented, there is no difference in the number of shares used to calculate basic and diluted shares outstanding as inclusion of the potentially dilutive securities (warrants, stock options, and common shares subject to repurchase) would be antidilutive.

Recently Adopted Accounting Standards

There were no recently adopted accounting standards which would have a material impact on the Company's financial statements.

Recently Issued Accounting Pronouncements

The Company assesses the adoption impacts of recently issued accounting standards by the Financial Accounting Standards Board or other standard setting bodies on the Company's financial statements as well as material updates to previous assessments, if any, from the Company's Annual Report on Form 10-K for the year ended December 31, 2022. There were no new material accounting standards issued in the first quarter of 2023 that impacted the Company.

2. Balance Sheet Details

Property, Plant and Equipment, net

Property, plant and equipment, net, consist of the following (in thousands):

	March 31, 2023	December 31, 2022
Computer equipment and software	$ 1,087	$ 1,078
Furniture and fixtures	1,086	1,086
Leasehold improvements	115	115
Construction in process	604	399
Total property, plant and equipment, gross	2,892	2,678
Less: accumulated depreciation	(1,617)	(1,471)
Total property, plant and equipment, net	$ 1,275	$ 1,207

Depreciation expense for each of the three months ended March 31, 2023 and 2022 was approximately $0.1 million. No property, plant or equipment was disposed of during the three months ended March 31, 2023 or the year ended December 31, 2022.

Accrued Expenses

Accrued expenses consist of the following (in thousands):

	March 31, 2023	December 31, 2022
Accrued research and development expenses	$ 2,497	$ 3,080
Accrued compensation expenses	3,490	8,447
Accrued professional & consulting expenses	1,972	3,000
Accrued other	56	151
Total accrued expenses	$ 8,015	$ 14,678

3. Related Party Transactions

Frazier is a principal stockholder of the Company with representation on the Board of Directors. Frazier is compensated for their participation on the Board of Directors and as of March 31, 2023 and December 31, 2022, the Company had $17,000 and $15,000, respectively, outstanding accounts payable and accrued expenses related to these services. For the three months ended March 31, 2023 and 2022, the Company incurred $3,000 and no expense, respectively, of expenses related to participation on the Board of Directors. Frazier is also a principal stockholder in PCI Pharma Services, or PCI. In the third quarter of 2019, the Company engaged PCI for clinical manufacturing services. As of March 31, 2023 and December 31, 2022, the Company had $1.2 million and $1.1 million, respectively, outstanding accounts payable and accrued expenses related to these manufacturing services. For the three months ended March 31, 2023 and 2022, the Company incurred $0.1 million and $0.3 million, respectively, of expenses related to services performed by PCI.

Takeda became a common stockholder of the Company in connection with the May 2019 license agreement (see Note 4). In conjunction with this license, Takeda provides proprietary supplies for the Company's ongoing clinical development of vonoprazan in addition to the exclusive license for the commercialization of vonoprazan in the United States, Canada and Europe. On May 5, 2020, the Company entered into a Commercial Supply Agreement, or the Commercial Supply Agreement, with Takeda, pursuant to which Takeda will supply commercial quantities of vonoprazan bulk drug product or drug substance. Pursuant to the Commercial Supply Agreement, Takeda has agreed to supply the Company with, and the Company has agreed to purchase from Takeda, certain quantities of vonoprazan bulk drug product according to approved specifications at a fixed price per batch of bulk drug product in order to commercialize vonoprazan in accordance with the Takeda License. Unless terminated earlier, the term of the Commercial Supply Agreement extends for a period of two years from the date the Company places an order for bulk drug product or drug substance for the first commercial launch of vonoprazan in any jurisdiction in the licensed territory, provided that this two-year period will expire no later than December 31, 2023. The Commercial Supply Agreement will terminate immediately upon the termination of the Takeda License in accordance with its terms. In connection with the Takeda License, the Company entered into a temporary services agreement, or the Temporary Services Agreement, with Takeda on November 24, 2020. Pursuant to the Temporary Services Agreement, Takeda agreed to provide or procure the provision of services related to the ongoing clinical development of vonoprazan. The Temporary Services Agreement will terminate immediately upon termination of the Takeda License in accordance with its terms. As of March 31, 2023 and December 31, 2022, the Company had $1.5 million and $1.4 million, respectively, in outstanding accounts payable and accrued expenses related to these agreements. For the three months ended March 31, 2023 and 2022, the Company incurred $0.1 million and $1.1 million, respectively, of expenses related to these agreements. The Company has no remaining minimum purchase obligation related to these agreements.

4. Commitments and Contingencies

License Agreement

On May 7, 2019, the Company entered into a license agreement with Takeda pursuant to which it was granted an exclusive license to commercialize vonoprazan fumarate in the United States, Canada and Europe, or, the Takeda License. The Company also has the right to sublicense its rights under the agreement, subject to certain conditions. The agreement will remain in effect, on a country-by-country and product-by-product basis, until the later of (i) the expiration of the last to expire valid patent claim covering vonoprazan fumarate alone or in combination with at least one other therapeutically active ingredient, (ii) the expiration of the applicable regulatory exclusivity and (iii) 15 years from the date of first commercial sale, unless earlier terminated. The Company may terminate the Takeda License upon six months' written notice. The Company and Takeda may terminate the Takeda License in the case of the other party's insolvency or material uncured breach. Takeda may terminate the Takeda License if the Company challenges, or assists in challenging, licensed patents.

In consideration of the Takeda License, the Company (i) paid Takeda $25.0 million in cash, (ii) issued Takeda 1,084,000 shares of its common stock at a fair value of $5.9 million, (iii) issued the Takeda Warrant to purchase 7,588,000 shares of its common stock at an exercise price of $0.00004613 per share at an initial fair value of $47.9 million, and (iv) issued a right to receive an additional common stock warrant, or, the Takeda Warrant Right, should Takeda's fully-diluted ownership of the Company represent less than a certain specified percentage of the fully-diluted capitalization, including shares issuable upon conversion of then outstanding convertible promissory notes, calculated immediately before the closing of the Company's IPO, with a nominal initial fair value due to the low probability of issuance. The Takeda Warrant Right expired without effect since no fair value had been allocated to it upon completion of the IPO, and no additional warrant was issued. In addition, the Company is obligated to pay Takeda up to an aggregate of $250.0 million in sales milestones upon the achievement of specified levels of product sales, and a low double-digit royalty rate on aggregate net sales of licensed products, subject to certain adjustments. The Takeda Warrant had an exercise price of $0.00004613 per share, and was to expire on May 7, 2029 and became exercisable upon the consummation of the IPO. As of March 31, 2023, all Takeda Warrants have been exercised.

Purchase Commitments

In December 2020, the Company entered into a supply agreement with Sandoz pursuant to which Sandoz will supply commercial quantities of amoxicillin capsules and clarithromycin tablets, package these antibiotics with vonoprazan, and provide in finished convenience packs. The supply agreement commits the Company to a minimum purchase obligation of approximately $3.8 million in the first 24-month period following the launch of the final product. The Company has not incurred any expenses under the agreement during the three months ended March 31, 2023 and 2022.

Contingencies

In the event the Company becomes subject to claims or suits arising in the ordinary course of business, the Company would accrue a liability for such matters when it is probable that future expenditures will be made and such expenditures can be reasonably estimated.

5. Lease Commitments

As of March 31, 2023, the Company had operating leases for office space in both Buffalo Grove, Illinois and Florham Park, New Jersey, with remaining lease terms of 2.1 years and 2.4 years, respectively. All operating leases contain an option to extend the term for one additional five year period, which was not considered in the determination of the right-of-use asset or lease liability as the Company did not consider it reasonably certain that it would exercise such options.

The total rent expense for the three months ended March 31, 2023 and 2022 was $0.3 million and $0.2 million, respectively.

The following table summarizes supplemental balance sheet information related to the operating leases (in thousands):

	March 31, 2023	December 31, 2022
Assets:		
Operating lease right-of-use assets	$ 2,088	$ 2,287
Total right-of-use assets	2,088	2,287
Liabilities:		
Operating lease liabilities, current	712	708
Operating lease liabilities, non-current	945	1,098
Total operating lease liabilities	$ 1,657	$ 1,806

As of March 31, 2023, the future minimum annual lease payments under the operating leases were as follows (in thousands):

2023	552
2024	753
2025	513
Total minimum lease payments	1,818
Less: amount representing interest	(161)
Present value of operating lease liabilities	1,657
Less: operating lease liabilities, current	(712)
Operating lease liabilities	$ 945
Weighted-average remaining lease term (in years)	2.3
Weighted-average incremental borrowing rate	8.20%

Operating cash flows for the three months ended March 31, 2023 and 2022 included cash payments for operating leases of approximately $0.2 million and $0.1 million, respectively.

6. Debt

Total debt consists of the following (in thousands):

	March 31, 2023
Long-term debt, current portion	$ —
Long-term debt, non-current portion	105,351
Unamortized debt discount	(8,713)
Total debt, net of debt discount	$ 96,638

On September 17, 2021, or the Closing Date, the Company entered into a Loan and Security Agreement, or, the Loan Agreement, with Hercules Capital, Inc., in its capacity as administrative agent and collateral agent and as a lender, or, in such capacity, the Agent or Hercules, and the other financial institutions that from time to time become parties to the Loan Agreement as lenders, or, collectively, the Lenders.

The Loan Agreement provides for term loans in an aggregate principal amount of up to $200.0 million, or the Term Loan, under multiple tranches. The tranches consist of (i) a first tranche consisting of term loans in an aggregate principal amount of $100.0 million, all of which was funded to the Company on the Closing Date, or First Advance, (ii) a second tranche consisting of up to an additional $50.0 million, which became available to the Company upon achievement of the protocol-specified primary efficacy endpoints in the Company's Phase 3 trial studying vonoprazan for the healing and maintenance of healing of Erosive GERD with acceptable safety data, such that the results support the submission of a New Drug Application, or NDA, or supplemental NDA without the need to conduct another Phase 3 study and will be available, if specified conditions are met, through December 15, 2022, see amendment to later date below, (iii) a third and fourth tranche consisting of an additional total $50.0 million, which became available to the Company in May 2022 upon the achievement of (a) Food and Drug Administration, or FDA, approval of the Company's NDA for vonoprazan and amoxicillin, or its New Drug Application for vonoprazan, amoxicillin and clarithromycin, in each case for an indication relating to the treatment of *Helicobacter pylori*, or *H. pylori,* with an approved indication on the claim that is generally consistent with that sought in the Company's NDA submission; and (b) filing of the Company's NDA or supplemental NDA for vonoprazan for indications relating to the healing and maintenance of healing of Erosive GERD. The third and fourth tranches will remain available until September 30, 2023, and March 31, 2024, respectively.

On September 27, 2022, the Company entered into an amendment to the Loan Agreement, or the Second Loan Amendment, pursuant to which the date the second tranche of funding of $50 million will remain available to the Company has been moved until May 15, 2023, rather than December 15, 2022.

The Company paid a $1.25 million facility charge in connection with the closing of the Loan Agreement and would need to pay 0.5% of any advances made under the third and fourth tranches.

The Term Loan will mature on October 1, 2026, or the Maturity Date. The Term Loan bears (i) cash interest at a variable annual rate equal to the greater of (a) 5.50% and (b) the Prime Rate (as reported in the Wall Street Journal) plus 2.25%, or the Interest Rate, and (ii) payment-in-kind interest at a per annum rate of interest equal to 3.35%. Phathom may make payments of interest only through October 1, 2024, which was extended to October 1, 2025, upon the achievement of the Second Performance Milestone in May 2022 prior to September 30, 2024 and met the condition that no default or event of default exists, and which is further extendable to October 1, 2026, subject to FDA approval of the Company's NDA (or supplemental NDA) for vonoprazan for an indication relating to the healing and maintenance of healing of erosive esophagitis with an approved indication on the label that is generally consistent with that sought in the Company's NDA submission (or supplemental NDA submission), or the Third Performance Milestone, on or prior to September 30, 2025 and no default or event of default exists, or the interest only period. After the interest-only period, the principal balance and related interest will be required to be repaid in equal monthly installments and continuing until the Maturity Date.

In addition, the Company is obligated to pay a final payment fee of 7.50% of the original principal amount of amounts actually advanced under the Term Loan, or, each a Term Loan Advance and together, the Term Loan Advances. As of March 31, 2023, the aggregate final payment fee for the first Term Loan Advance of $7.5 million has been recorded as an other long-term liability.

The Company may elect to prepay all or a portion of the Term Loan Advances prior to maturity, subject to a prepayment fee of up to 1.25% of the then outstanding principal balance of the Term Loan Advances being prepaid. After repayment, no Term Loan amounts may be borrowed again.

As collateral for the obligations, the Company has granted Hercules a senior security interest in all of the Company's right, title, and interest in, to and under substantially all of Company's property, inclusive of intellectual property.

The Loan Agreement contains customary closing fees, prepayment fees and provisions, events of default, and representations, warranties and covenants, including a financial covenant requiring the Company to maintain certain levels of cash subject to a control agreement in favor of the Agent (minus accounts payable not paid within 120 days of invoice), or Qualified Cash, and commencing on May 15, 2023, trailing three-month net product revenue from the sale of vonoprazan and products containing vonoprazan. The revenue covenant will be waived at any time in which the Company maintains Qualified Cash equal to at least 60.0% (prior to the Third Performance Milestone), and 35% (following the Third Performance Milestone) of the total outstanding Term Loan principal amount, or the Company's market capitalization is at least $900.0 million. Upon the occurrence of an event of default, subject to any specified cure periods, all amounts owed by the Company may be declared immediately due and payable by Hercules, as collateral agent. As of March 31, 2023, the Company was in compliance with all applicable covenants under the Loan Agreement.

Under the Second Loan Amendment, the commencement date for the covenant based on trailing three-month net product revenue from the sale of vonoprazan and products containing vonoprazan was moved from May 15, 2023, to November 15, 2023.

In connection with the entry into the Loan Agreement, the Company issued to Hercules a warrant, or, the Warrant, to purchase a number of shares of the Company's common stock equal to 2.5% of the aggregate amount of the Term Loan advances funded, and will issue to Hercules additional warrants when future Term Loan advances are funded. On the Closing Date, the Company issued a Warrant for 74,782 shares of common stock. The Warrant will be exercisable for a period of seven years from the date of issuance at a per-share exercise price equal to $33.43, which was the closing price of the Company's common stock on September 16, 2021. The Warrant is exercisable any time until September 17, 2028 and had an initial fair value of approximately $1.3 million.

The initial $1.3 million fair value of the Warrant, the $7.5 million final interest payment fee and $3.1 million of debt issuance costs have been recorded as debt discount and are being amortized to interest expense using the effective interest method over the term of the Term Loan.

Future minimum principal payments under the Term Loan, including the final payment fee, as of March 31, 2023 are as follows (in thousands):

Year ending December 31:	
2023	—
2024	—
2025	29,707
2026	94,764
Total principal and interest payments	124,471
Less payment-in-kind and final payment fee	(24,471)
Total term loan borrowings	$ 100,000

During the three months March 31, 2023 and 2022, the Company recognized $4.0 million and $2.8 million, respectively, of interest expense, including amortization of the debt discount, in connection with the Hercules Loan Agreement. As of March 31, 2023, the Company had an outstanding loan balance of $105.4 million and accrued interest of $0.9 million.

7. Revenue Interest Financing Liability

On May 3, 2022, Phathom entered into a Revenue Interest Financing Agreement with Initial Investors NQ, Sagard, and Hercules pursuant to which the Company will receive up to $260 million in funding from the Initial Investors. Under the terms of the Revenue Interest Financing Agreement, the Company received $100 million at the initial closing and can receive an additional $160 million upon FDA approval of vonoprazan for treatment of Erosive GERD on or before March 31, 2024. At any time prior to December 31, 2022, the Company also had the right to obtain a written commitment from a third party for up to $15 million of funding upon FDA approval of vonoprazan for Erosive GERD. In addition, the Company has the right at any time prior to June 30, 2024, to obtain a written commitment from a third party for up to $25 million of funding upon achievement of a sales milestone. The Initial Investors have a right of first offer if the Company seeks to obtain such additional funding. The total amount funded by the Initial Investors and any subsequent investors is referred to herein as the Investment Amount.

On October 31, 2022, the Company entered into a Joinder Agreement with the Initial Investors and CO Finance LVS XXXVII LLC, or the Additional Investor, and Hercules Capital, Inc. Under the terms of the Joinder Agreement, the Initial Investors waived their rights of first offer regarding the Additional Investor Funding and the Additional Investor joined the Revenue Interest Financing Agreement to extend commitments for the Additional Investor Funding.

Under the Revenue Interest Financing Agreement, the investors are entitled to receive a 10% royalty on net sales of products containing vonoprazan. The royalty rate is subject to a step-down on net sales exceeding certain annual thresholds and if the Company receives FDA approval for vonoprazan for an indication relating to the treatment of heartburn associated with Non-Erosive GERD. The investors' right to receive royalties on net sales will terminate when the investors have aggregate payments equal to 200% of the Investment Amount. In addition, at any time after the earlier of (i) April 30, 2024 and (ii) the date that the payment for Erosive GERD regulatory approval is made, the Company has the right to make a cap payment equal to 200% of the Investment Amount less any royalties already paid, at which time the agreement will terminate.

If the investors have not received aggregate payments of at least 100% of the Investment Amount by December 31, 2028, and at least 200% of the Investment Amount by December 31, 2037, each a Minimum Amount, then the Company will be obligated to make a cash payment to the investors in an amount sufficient to gross the investors up to the applicable Minimum Amount.

Upon the occurrence of an event of default taking place prior to April 1, 2025, between April 1, 2025, and April 1, 2028, and after April 1, 2028, the Company is obligated to pay 1.30 times Investment Amount, 1.65 times Investment Amount, and 2.0 times investment amount, respectively, less any amounts the Company previously paid pursuant to the agreement.

Upon the occurrence of a change in control event taking place prior to the earlier of April 1, 2024, or FDA approval of vonoprazan for Erosive GERD, the Company is obligated to pay 200% of the Investment Amount plus either 15% of the Investment Amount if occurrence prior to May 3, 2023, or plus 30% of the Investment Amount if occurrence thereafter.

During the year ended December 31, 2022, the Company received gross proceeds of $100.0 million before deducting transaction costs of $4.6 million, which resulted in net proceeds of $95.4 million.

The Company has evaluated the terms of the Revenue Interest Financing Agreement and concluded that the features of the Investment Amount are similar to those of a debt instrument. Accordingly, the Company has accounted for the transaction as a debt obligation with interest expense based on an imputed effective rate derived from the initial carrying value of the obligation and the expected future payments. The Company recalculates the effective interest rate each period based on the current carrying value and the revised estimated future payments. Changes in future payments from previous estimates are included in the current and future financing expense. The carrying value of the revenue interest financing liability was $114.7 million as of March 31, 2023.

Total revenue interest financing liability consists of the following (in thousands):

	March 31, 2023
Proceeds from the Revenue Interest Financing Agreement	$ 100,000
Less: transaction costs	(4,554)
Less: royalty payments and payables	—
Plus: interest expense	19,233
Ending liability balance	$ 114,679

During the three months ended March 31, 2023, the Company recognized $5.2 million of interest expense in connection with the revenue interest financing liability.

The Company will record liabilities associated with additional funding upon FDA approval of vonoprazan for Erosive GERD and achievement of the sales milestone when such contingent events occur. To determine the accretion of the liability related to the Revenue Interest Financing Agreement, the Company is required to estimate the total amount of future royalty payments and estimated timing of such payments based on the Company's revenue projections. As royalty payments are made, the balance of the debt obligation will be effectively repaid. Based on the Company's periodic review, the exact timing of repayment is likely to be different in each reporting period as compared to those estimated in the Company's initial revenue projections. A significant increase or decrease in actual net sales of vonoprazan compared to the Company's revenue projections could impact the interest expense associated with the revenue interest financing liability. Also, the Company's total obligation can vary depending on change in control or default events and the achievement of FDA approval of vonoprazan for Erosive GERD and achievement of the sales milestone.

8. Stockholders' Equity

Common Stock

In March 2019, subsequent to the Merger, the Company sold 1,491,072 shares of the Company's common stock to Frazier.

In March 2019, the founders granted the Company a repurchase right for the 3,373,408 shares of common stock originally purchased in 2018. The Company has the right, but not the obligation, to repurchase unvested shares in the event the founder's relationship with the Company is terminated, subject to certain limitations, at the original purchase price of the stock. The repurchase right lapsed for 843,352 shares in March 2019 and the repurchase right for the remaining 2,530,056 shares lapses in equal monthly amounts over the following 48-month period ending in March 2023. The fair value of the founder shares at the date the repurchase right was granted is being recognized as stock-based compensation expense on a straight-line basis over the vesting period. As of March 31, 2023, no shares of common stock were subject to repurchase by the Company and there is no associated repurchase liability. The amount of recognized and unrecognized stock-based compensation related to the founder stock was immaterial for all periods presented.

In May 2019, the Company issued Takeda 1,084,000 shares of common stock in connection with the Takeda License.

For the period from January 1, 2019 to May 6, 2019, the Company issued 2,524,852 shares of common stock to various employees and consultants of the Company for aggregate proceeds of approximately $1,000. Upon issuance, these shares were subject to a repurchase option by the Company at the original purchase price of the shares. The repurchase rights generally lapse as to 25% of the shares on the first anniversary of the vesting commencement date, and the repurchase right lapses as to 1/48th of the shares each one-month period thereafter, subject to the purchaser remaining continuously an employee, consultant or director of the Company. In November 2019, the Company repurchased 17,560 shares at the original purchase price for an aggregate purchase price of $5.20. As of March 31, 2023, 31,843 shares remain available for repurchase by the Company and the associated repurchase liability was not significant.

On October 29, 2019, upon completion of the IPO, the Company sold 10,997,630 shares of common stock, which included the exercise in full by the underwriters of their option to purchase 1,434,473 additional shares at a public offering price of $19.00 per share. The net proceeds were approximately $191.5 million, after deducting underwriting discounts, commissions and offering costs.

In November 2020, the Company entered into the Sales Agreement, pursuant to which, the Company will pay the Sales Agent a commission for its services in acting as an agent in the sale of common stock in an amount equal to 3% of the gross sales price per share sold. In September 2022, the Company sold 2,414,897 shares for net proceeds of approximately $24.6 million under the ATM Offering after deducting $0.8 million of issuance costs. In February 2023, the Company sold 1,514,219 shares for net proceeds of approximately $14.1 million under the ATM Offering after deducting $0.4 million of issuance costs. As of March 31, 2023, the Company has utilized $39.9 million of the available $125.0 million under the ATM Offering.

On December 16, 2020, the Company completed an underwritten public offering, in which it sold 2,250,000 shares of its common stock at a price of $42.00 per share for total gross proceeds of $94.5 million. The net purchase price after deducting underwriting discounts and commissions was $39.48 per share, which generated net proceeds of $88.8 million. The Company incurred an additional $0.2 million of offering expenses in connection with this public offering.

A summary of the Company's unvested shares is as follows:

Balance at December 31, 2022	254,437
Share vesting	(222,593)
Balance at March 31, 2023	31,844

For accounting purposes, unvested awards are considered issued, but not outstanding until they vest.

Common stock reserved for future issuance consists of the following:

	March 31, 2023
Common stock warrants	91,228
Stock options and performance-based awards outstanding	9,046,999
Shares available for issuance under the 2019 Incentive Plan	681,762
Shares available for issuance under the ESPP Plan	1,048,370
Balance at December 31, 2023	10,868,359

Preferred Stock

The Company is authorized to issue up to 40 million shares of preferred stock. As of March 31, 2023 and December 31, 2022, there were no shares of preferred stock issued or outstanding.

Equity Incentive Plan

The Company's 2019 Equity Incentive Plan, or the Existing Incentive Plan, provides for the grant of incentive stock options, non-statutory stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards, and other stock awards to eligible recipients, including employees, directors or consultants of the Company. The Company had 2,231,739 shares of common stock authorized for issuance under the Existing Incentive Plan, of which, 1,400,528 stock options and 16,260 restricted stock awards were granted. As a result of the adoption of the 2019 Incentive Award Plan, or the 2019 Plan, in October 2019, no further shares are available for issuance under the Existing Incentive Plan.

2019 Incentive Award Plan

In October 2019, the board of directors adopted, and the Company's stockholders approved, the 2019 Plan, which became effective in connection with the IPO. Under the 2019 Plan, the Company may grant stock options, stock appreciation rights, restricted stock, restricted stock units and other awards to individuals who are then employees, officers, non-employee directors or consultants of the Company or its subsidiaries. The number of shares initially available for issuance will be increased by (i) the number of shares subject to stock options or similar awards granted under the Existing Incentive Plan that expire or otherwise terminate without having been exercised in full after the effective date of the 2019 Plan and unvested shares issued pursuant to awards granted under the Existing Incentive Plan that are forfeited to or repurchased by the Company after the effective date of the 2019 Plan, with the maximum number of shares to be added to the 2019 Plan pursuant to clause (i) above equal to 1,416,788 shares, and (ii) an annual increase on January 1 of each calendar year beginning in 2020 and ending in 2029, equal to the lesser of (a) 5% of the shares of common stock outstanding on the final day of the immediately preceding calendar year and (b) such smaller number of shares as determined by the board of directors. As of March 31, 2023, 681,762 shares remain available for issuance, which reflects 2,391,070 of stock option, performance-based unit, or PSU, and restricted stock unit, or RSU, awards granted, and 28,782 of awards cancelled or forfeited, during the three months ended March 31, 2023 as well as an annual increase of 2,086,165 shares authorized on January 1, 2023.

Performance-based Units

During 2020, the Company granted the initial PSUs whereby vesting depends upon the approval by the FDA of vonoprazan for *H. pylori* and then, or concurrent with, Erosive GERD. In 2022, the Company granted an additional 37,500 PSUs to employees. In 2023, the Company granted an additional 597,650 PSUs to employees. As of March 31, 2023, the PSU milestones had not been achieved and no related compensation cost had been recognized. The following table summarizes PSU activity under the 2019 Incentive Award Plan during the three months ended March 31, 2023.

	Number of Stock Units	Weighted-Average Grant Date Fair Value Per Share
Unvested balance at December 31, 2022	412,300	$ 30.97
Granted	597,650	10.89
Vested	—	—
Forfeited	—	—
Unvested balance at March 31, 2023	1,009,950	$ 19.09

As of March 31, 2023, there was approximately $19.3 million of related unrecognized stock-based compensation expense, which will begin to be recognized upon vesting.

Restricted Stock Units

The following table summarizes RSU activity under the 2019 Incentive Award Plan during the three months ended March 31, 2023.

	Number of Stock Units	Weighted-Average Grant Date Fair Value Per Share
Unvested balance at December 31, 2022	877,467	$ 11.03
Granted	749,760	8.36
Vested	(191,526)	11.36
Forfeited	(2,817)	10.26
Unvested balance at March 31, 2023	1,432,884	$ 9.59

As of March 31, 2023, the Company had $11.5 million of unrecognized stock-based compensation expense, which is expected to be recognized over a weighted-average period of 2.3 years.

Employee Stock Purchase Plan

In October 2019, the board of directors adopted, and the Company's stockholders approved, the Employee Stock Purchase Plan, or the ESPP, which became effective in connection with the IPO. The ESPP permits participants to purchase common stock through payroll deductions of up to 20% of their eligible compensation, which includes a participant's gross base compensation for services to the Company, including overtime payments and excluding sales commissions, incentive compensation, bonuses, expense reimbursements, fringe benefits and other special payments. A total of 270,000 shares of common stock were initially reserved for issuance under the ESPP. In addition, the number of shares available for issuance under the ESPP will be annually increased on January 1 of each calendar year beginning in 2020 and ending in 2029, by an amount equal to the lesser of: (i) 1% of the shares outstanding on the final day of the immediately preceding calendar year and (ii) such smaller number of shares as is determined by the board of directors. As of March 31, 2023, 1,048,370 shares of common stock remain available for issuance, which includes the 121,801 shares sold to employees during the three months ended March 31, 2023 as well as an annual increase of 417,233 shares authorized on January 1, 2023.

The ESPP is considered a compensatory plan, and the Company recorded related stock-based compensation of $0.1 million for the three months ended March 31, 2023 and 2022. The weighted-average assumptions used to estimate the fair value of ESPP awards using the Black-Scholes option valuation model were as follows:

	Three Months Ended March 31,	
	2023	2022
Assumptions:		
Expected term (in years)	0.49	0.49
Expected volatility	69.10%	72.41%
Risk free interest rate	4.77%	0.37%
Dividend yield	—	—

The estimated weighted-average fair value of ESPP awards for the three months ended March 31, 2023 and 2022, were $2.87 and $5.31, respectively. As of March 31, 2023, the total unrecognized compensation expense related to the ESPP was $0.2 million, which is expected to be recognized over a weighted-average period of approximately 0.3 years.

401(k) Plan

The Company established a 401(k) savings plan during the year ended December 31, 2020. The Company's contributions to the plan are discretionary. During the three months ended March 31, 2023 and 2022, the Company incurred $0.8 million and $0.6 million, respectively, of expense related to estimated employer contribution liabilities, which was based on a 75% match of employees' contributions during the periods. In August 2021, the Board of Directors approved a semi-annual discretionary match for 2021, which was settled by contributing 18,394 shares. In January 2022, the Board of Directors approved a second semi-annual discretionary match for 2021, which was settled by contributing 16,756 shares. In July 2022, the Board of Directors approved a semi-annual match for 2022, which was settled by contributing 84,784 shares. In January 2023, the Board of Directors approved a semi-annual match for 2022, which was settled by contribution 52,130 shares.

Stock Options

The fair value of each employee and non-employee stock option grant is estimated on the date of grant using the Black-Scholes option-pricing model. The Company, prior to the IPO on October 29, 2019, was a private company and lacked company-specific historical and implied volatility information. Therefore, it estimated its expected volatility based on the historical volatility of a publicly traded set of peer companies. Due to the lack of historical exercise history, the expected term of the Company's stock options for employees was determined utilizing the "simplified" method for awards. The expected term of stock options granted to non-employees was equal to the contractual term of the option award. The risk-free interest rate was determined by reference to the U.S. Treasury yield curve in effect at the time of grant of the award for time periods approximately equal to the expected term of the award. Expected dividend yield was zero based on the fact that the Company has never paid cash dividends and does not expect to pay any cash dividends in the foreseeable future.

A summary of the Company's stock option activity and related information is as follows:

	Options Outstanding	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term	Aggregate Intrinsic Value (in thousands)
Balance at December 31, 2022	5,586,470	$ 23.40	7.90	$ 4,476
Options granted	1,043,660	8.38		
Options exercised	—	—		
Options cancelled	(25,965)	34.66		
Balance at March 31, 2023	6,604,165	$ 20.98	8.00	$ 170
Options exercisable as of March 31, 2023	3,019,036	23.99	7.19	138

The estimated weighted-average fair value of employee and nonemployee director stock options granted during 2023 was $5.13 per option. As of March 31, 2023, the Company had $37.3 million of unrecognized stock-based compensation expense, which is expected to be recognized over a weighted-average period of 2.1 years.

The weighted-average assumptions used to estimate the fair value of stock options using the Black-Scholes option valuation model were as follows:

	Three Months Ended March 31,	
	2023	2022
Assumptions:		
Expected term (in years)	6.08	6.08
Expected volatility	63.77%	66.19%
Risk free interest rate	3.46%	1.70%
Dividend yield	—	—

Stock-Based Compensation Expense

Stock-based compensation expense recognized for all equity awards, including founder stock, has been reported in the statements of operations and comprehensive loss as follows (in thousands):

	Three Months Ended March 31,	
	2023	2022
Research and development expense	$ 1,776	$ 1,139
General and administrative expense	5,272	4,636
Total	$ 7,048	$ 5,775

9. Subsequent Event

Amendment to Loan and Security Agreement

On May 9, 2023, the Company entered into the Third Amendment to Loan and Security Agreement, or the Third Loan Amendment, with the lenders thereunder and Hercules Capital, Inc., in its capacity as administrative agent and collateral agent and as a lender (in such capacity, the "Agent" or "Hercules"), pursuant to which, among other things, (i) the second tranche availability was extended from May 15, 2023, to December 15, 2023, to become available on October 1, 2023 or earlier subject to certain conditions, (ii) the third tranche availability was extended from September 30, 2023, to December 15, 2023, to become available on October 1, 2023 or earlier subject to certain conditions, (iii) the effective date of the Performance Covenants was amended to provide an option to extend the covenant trigger date, subject to certain conditions, and (iv) the warrant agreement with Hercules was amended as described below. In connection with the Third Loan Amendment, a tranche extension amendment fee of $150,000 and a covenant extension amendment fee of $100,000 was paid to the Agent.

Amendment to Warrants

In connection with the entry into the Third Loan Amendment, the Company amended the form of warrant agreement, the Revised Warrant Agreement, to purchase shares of the Company's common stock, par value $0.0001 per share, the Common Stock, to be issued upon drawdowns of future tranches under the Term Loan. The exercise price under the Revised Warrant Agreement shall be equal to the lesser of (i) $11.6783, which was the trailing ten-day volume-weighted average price, or VWAP, prior to entering into the Third Loan Amendment, and (ii) the trailing ten-day VWAP preceding the date on which the Company drawdown future tranches. The number of shares of Common Stock shall continue to be equal to 2.5% of the amount of the Term Loan advances funded, as such amounts are funded. The warrants shall be exercisable for a period of seven years from the date of issuance.

The exercise price and terms of the outstanding warrants to purchase 74,783 shares of our Common Stock previously issued to Hercules remain unchanged. The Company entered into the First Amendment to Warrant, or the Warrant Amendment, to make technical changes to the defined terms to provide that the outstanding warrant only covers the initial $100.0 million advance already drawn under the Term Loan.

Item 2. 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 in conjunction with the unaudited interim financial statements and notes thereto included in this Quarterly Report on Form 10-Q and with our audited financial statements and notes thereto for the year ended December 31, 2022 and the related Management's Discussion and Analysis of Financial Condition and Results of Operations, both of which are contained in our Annual Report on Form 10-K for the year ended December 31, 2022, or the 2022 Form 10-K.

Forward Looking Statements

The following discussion and other parts of this quarterly report contain forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. All statements other than statements of historical facts contained in this quarterly report, including statements regarding our future results of operations and financial position, business strategy, research and development plans and costs, the impact of COVID-19, the timing and likelihood of regulatory filings and approvals, commercialization plans, pricing and reimbursement, the potential to develop future product candidates, the timing and likelihood of success of the plans and objectives of management for future operations, and future results of anticipated product development efforts, are forward-looking statements. These statements are often identified by the use of words such as "may," "will," "expect," "believe," "anticipate," "intend," "could," "should," "estimate," or "continue," and similar expressions or variations. The forward-looking statements in this quarterly report are only predictions. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, operating results, business strategy, short-term and long-term business operations and objectives. These forward-looking statements speak only as of the date of this quarterly report and are subject to a number of risks, uncertainties and assumptions, including those described in the Part II, Item 1A under the heading "Risk Factors." 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. 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.

Overview

We are a biopharmaceutical company focused on developing and commercializing novel treatments for gastrointestinal, or GI, diseases. Our initial approved products, VOQUEZNA TRIPLE PAK and VOQUEZNA DUAL PAK, as well as our current product candidate, VOQUEZNA, contain vonoprazan, an oral small molecule potassium-competitive acid blocker, or PCAB. PCABs are a novel class of medicines that block acid secretion in the stomach. Vonoprazan has shown rapid, potent, and durable anti-secretory effects and has demonstrated clinical benefits over the current standard of care as a single agent in the treatment of erosive gastroesophageal reflux disease, or Erosive GERD, and in combination with antibiotics for the treatment of *H. pylori* infection. Takeda developed vonoprazan and has received marketing approval in numerous countries in Asia and Latin America as well as Russia. Vonoprazan generated approximately $850 million in net sales in its seventh full year on the market since its approval in Japan in late 2014. In May 2019, we in-licensed the U.S., European, and Canadian rights to vonoprazan from Takeda.

In 2021 we reported positive topline data from two pivotal Phase 3 clinical trials for vonoprazan: one for the treatment of *H. pylori* infection, or PHALCON-HP, and a second for the treatment of Erosive GERD, PHALCON-EE. In April 2021, we reported positive topline data from PHALCON-HP, and in October 2021, we reported positive topline data from PHALCON-EE. These data are supplemented by the extensive existing clinical data generated by Takeda as part of their development program for vonoprazan in Japan and other markets. In September 2021, we submitted two new drug applications, or NDAs, for combination packs that contain vonoprazan for the treatment of *H. pylori* infection in adults, one in combination with amoxicillin and clarithromycin (vonoprazan triple therapy) and the other in combination with amoxicillin alone (vonoprazan dual therapy). In May 2022, the FDA approved the NDAs for vonoprazan triple therapy, under the brand name VOQUEZNA TRIPLE PAK, and vonoprazan dual therapy, under the brand name VOQUEZNA DUAL PAK. Prior to approval, in May 2021, we received qualified infectious disease product, or QIDP, designations for VOQUEZNA TRIPLE PAK and VOQUEZNA DUAL PAK, which, upon approval of these products, added five years of regulatory exclusivity to the five years of new chemical entity, or NCE, exclusivity for vonoprazan to which these products were, and future products we develop containing vonoprazan will be, entitled.

In March 2022, we submitted an NDA for vonoprazan as a treatment for adults for the healing of all grades of Erosive GERD, maintenance of healing of all grades of Erosive GERD, and relief of heartburn associated with Erosive GERD. If approved, we expect to market the product under the brand name VOQUEZNA. In August 2022, we announced that, consistent with current FDA recommendations for all chemically synthesized drug compounds, we previously initiated post-approval testing to determine

whether nitrosamine impurities were present in our initial commercial drug product for VOQUEZNA TRIPLE PAK and VOQUEZNA DUAL PAK. These tests revealed trace levels of a nitrosamine impurity, *N*-nitroso-vonoprazan, or NVP, that is not described within the FDA guidance document entitled "Control of Nitrosamine Impurities in Human Drugs – Guidance for Industry." In February 2023, we received complete response letters from the FDA relating both to our Erosive GERD NDA and post approval supplements relating to our approved *H. pylori* NDAs, both of which formalized the FDA's prior request that we provide additional stability data to demonstrate that levels of NVP will remain at or below 96 ng/day, the acceptable daily intake level (AI) for NVP established by the FDA, throughout the proposed shelf life of the product. No additional deficiencies were cited by the FDA in either letter. We anticipate resubmitting our Erosive GERD NDA to the FDA in the second quarter of 2023, and new post-approval supplements to our approved *H. pylori* NDAs in the third quarter of 2023. Based on these expected submission dates, we anticipate commercial launch of vonoprazan for both the Erosive GERD and *H. pylori* indications in the fourth quarter of 2023, subject to FDA approval. However, if we are unable to demonstrate to the FDA that we will be able to maintain NVP levels at or below the AI throughout the proposed shelf life of our products, launches of VOQUEZNA TRIPLE PAK and VOQUEZNA DUAL PAK will be further delayed and approval of our Erosive GERD NDA will continue to be delayed, which could substantially increase our costs and delay or put at risk our ability to generate revenue and adversely affect our commercial prospects.

We are also continuing to develop vonoprazan as a treatment for symptomatic Non-Erosive GERD. In January 2023, we reported positive topline results from PHALCON-NERD-301, a Phase 3 study evaluating the safety and efficacy of vonoprazan for the daily treatment of adults with Non-Erosive GERD. Based on the results from this study, we plan to seek FDA approval of vonoprazan as a once-daily treatment for Non-Erosive GERD in the second half of 2023. In addition, we are in discussions with the FDA regarding the design of a Phase 3 trial to evaluate the novel dosing regimen of vonoprazan as an as needed treatment for episodic heartburn relief in patients with Non-Erosive GERD, a dosing regimen not approved in the U.S. for PPIs. This trial would constitute our fourth Phase 3 trial for vonoprazan. In February 2022, we reported positive topline results from PHALCON-NERD-201, a Phase 2 proof-of-concept study evaluating this novel dosing regimen.

We plan to independently commercialize VOQUEZNA TRIPLE PAK, VOQUEZNA DUAL PAK and, if approved, VOQUEZNA, in the United States. We plan to seek commercial partnerships for vonoprazan in Europe and Canada, expand development of vonoprazan into other indications, dosing regimens and alternative formulations and packaging, and in-license or acquire additional clinical or commercial stage product candidates for the treatment of GI diseases in a capital efficient manner.

We commenced our operations in 2018 and have devoted substantially all of our resources to date to organizing and staffing our company, business planning, raising capital, in-licensing our initial product candidate, vonoprazan, meeting with regulatory authorities, conducting our clinical trials of vonoprazan, preparing applications for regulatory approval for vonoprazan and preparing for commercial launch. Our operations to date have been funded primarily through the issuance of convertible promissory notes, commercial bank debt, the proceeds from our initial public offering, our follow-on public offering, our ATM Offering and our Revenue Interest Financing Agreement. From our inception through March 31, 2022, we have raised aggregate gross proceeds of $90.3 million from the issuance of convertible promissory notes, $100.0 million of debt, net proceeds from our initial public offering of $191.5 million from the sale of 10,997,630 shares of common stock, which included the exercise in full by the underwriters of their option to purchase 1,434,473 additional shares at a public offering price of $19.00 per share, after deducting underwriting discounts, commissions and offering costs, net proceeds of $88.6 million from the sale of 2,250,000 shares of common stock at a public offering price of $39.48 per share after deducting underwriting discounts and commissions, and an additional $0.2 million in offering costs, net proceeds of $95.4 million from the Revenue Interest Financing Agreement and net proceeds of $38.7 million from the sale of 3,929,116 shares under the ATM Offering. As of March 31, 2023, we had cash and cash equivalents of $129.6 million. Based on our current operating plan, we believe that our existing cash and cash equivalents together with the drawdown of the remaining $100 million under our Loan Agreement with Hercules are sufficient to fund operations for at least the next twelve months and receipt of $175 million in additional milestone payments under our Revenue Interest Financing Agreement, will be sufficient to fund our operations through the end of 2024.

We have not initiated commercial launch of any products and have incurred net losses since our inception. Our net losses for the three month periods ended March 31, 2023 and 2022 were $37.8 million and $40.7 million, respectively. As of March 31, 2023, we had an accumulated deficit of $764.9 million. Our net losses may fluctuate significantly from quarter-to-quarter and year-to-year, depending on the timing of our clinical development activities, other research and development activities and pre-commercialization activities. We expect our expenses and operating losses will increase as we continue to advance vonoprazan through clinical trials, seek additional regulatory approvals for vonoprazan, expand our quality, regulatory, manufacturing and commercialization capabilities, incur significant commercialization expenses for marketing, sales, manufacturing and distribution if we obtain marketing approval for VOQUEZNA for Erosive GERD in the U.S., protect our intellectual property, expand our general and administrative support functions, including hiring additional personnel, and incur additional costs associated with operating as a public company.

We have never generated any revenue and do not expect to generate any revenues from product sales unless and until we obtain regulatory approval for VOQUEZNA, or approval of our post-approval supplements for VOQUEZNA TRIPLE PAK and VOQUEZNA DUAL PAK, in the U.S. Accordingly, until such time as we can generate significant revenue from sales of products containing vonoprazan, if ever, we expect to finance our cash needs through equity offerings, our Loan Agreement, our Revenue Interest Financing Agreement, additional 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, and this risk could be exacerbated by the impact of the ongoing hostilities in the Ukraine on global economic conditions. Our failure to raise capital or enter into such other arrangements when needed would have a negative impact on our financial condition and could force us to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

License Agreement with Takeda

On May 7, 2019, we and Takeda entered into an exclusive license, or the Takeda License, pursuant to which we in-licensed the U.S., European, and Canadian rights to vonoprazan fumarate. During the term of the Takeda License, we and our affiliates are not permitted to commercialize any pharmaceutical product, other than vonoprazan, that treats acid-related disorders, except for certain generic and OTC competing products in specified circumstances. We will be responsible at our cost for the development, manufacture and commercialization of vonoprazan products. We are required to use commercially reasonable efforts to develop and commercialize the vonoprazan products in our licensed territory.

Under the Takeda License, Takeda has the sole right and authority, with our input, to prepare, file, prosecute, and maintain all Takeda and joint patents on a worldwide basis at its own cost. We are responsible, at our cost, for preparing, filing, prosecuting, and maintaining patents on inventions made solely by us in connection with vonoprazan, subject to input from Takeda.

We paid Takeda upfront consideration consisting of a cash fee of $25.0 million, 1,084,000 shares of our common stock, a warrant to purchase 7,588,000 shares of our common stock at an exercise price of $0.00004613 per share, or the Takeda Warrant, and issued Takeda a right to receive an additional common stock warrant, or the Takeda Warrant Right, if Takeda's fully-diluted ownership of the Company represented less than a certain specified percentage of the fully-diluted capitalization, including shares issuable upon conversion of then outstanding convertible promissory notes, calculated immediately prior to the closing of our IPO. The Takeda Warrant Right expired without effect since no fair value had been allocated to it upon completion of our IPO, and no additional warrant was issued. We agreed to make milestone payments to Takeda upon achieving certain tiered aggregate annual net sales of licensed products in the United States, Europe, and Canada up to a total maximum milestone amount of $250.0 million. We also agreed to make tiered royalty payments at percentages in the low double digits on net sales of licensed products, subject to specified offsets and reductions. Royalties will be payable, on a product-by-product and country-by-country basis from the first commercial sale of such product in such country, until the latest of expiration of the licensed patents covering the applicable product, expiration of regulatory exclusivity in such country, or 15 years following first commercial sale in such country.

Components of Results of Operations

Operating Expenses

Research and Development

To date, our research and development expenses have related to the development of vonoprazan. Research and development expenses are recognized as incurred and payments made prior to the receipt of goods or services to be used in research and development are capitalized until the goods or services are received.

Research and development expenses include:

- salaries, payroll taxes, employee benefits, and stock-based compensation charges for those individuals involved in research and development efforts;
- external research and development expenses incurred under agreements with CROs, and consultants to conduct and support our ongoing clinical trials of vonoprazan; and
- costs related to the manufacturing of vonoprazan for our clinical trials.

We plan to continue to invest in our research and development expenses for the foreseeable future as we continue the development of vonoprazan. We cannot determine with certainty the timing of initiation, the duration or the completion costs of current or future clinical trials and nonclinical studies of vonoprazan or any future product candidates due to the inherently unpredictable nature of clinical and preclinical development. Clinical and preclinical development timelines, the probability of success and development costs can differ materially from expectations. In addition, we cannot forecast which product candidates may be subject to future collaborations, when such arrangements will be secured, if at all, and to what degree such arrangements would affect our development plans and capital requirements.

Our future clinical development costs may vary significantly based on factors such as:

- per patient trial costs;
- the number of trials required for approval;
- the number of sites included in the trials;
- the countries in which the trials are conducted;
- the length of time required to enroll eligible patients;
- the number of patients that participate in the trials;
- the number of doses evaluated in the trials;
- the drop-out or discontinuation rates of patients;
- potential additional safety monitoring requested by regulatory agencies;
- the duration of patient participation in the trials and follow-up;
- the phase of development of the product candidate; and
- the efficacy and safety profile of the product candidate.

General and Administrative

General and administrative expenses consist of salaries and employee-related costs, including stock-based compensation, for personnel in commercial, executive, finance, accounting, legal, human resources and other administrative functions, legal fees relating to intellectual property and corporate matters, and professional fees for accounting and consulting services. We anticipate

that our general and administrative expenses will increase in the future to support our continued research and development activities, pre-commercial preparation activities for vonoprazan and, if any future product candidate receives marketing approval, commercialization activities. We also anticipate increased expenses related to audit, legal, regulatory, and tax-related services associated with maintaining compliance with exchange listing and SEC requirements, director and officer insurance premiums, and investor relations costs associated with operating as a public company.

Interest Income

Interest income consists of interest on our money market funds.

Interest Expense

Beginning on May 3, 2022, interest expense includes interest on the Revenue Interest Financing Agreement, which is based on the imputed effective rate derived from expected future payments and the carrying value of the obligation. The Company recalculates the effective interest rate each period based on the current carrying value and the revised estimated future payments. Changes in future payments from previous estimates are included in current and future financing expense.

Beginning on September 17, 2021, interest expense consists of (i) cash interest at a variable annual rate equal to the greater of (a) 5.50% and (b) the Prime Rate (as reported in the Wall Street Journal) plus 2.25%, or the Interest Rate, (ii) payment-in-kind interest at a per annum rate of interest equal to 3.35%, and (iii) amortization of the Hercules Loan Agreement debt discount recorded in connection with the fair value of warrants issued to the lenders, the debt issuance costs incurred, and the obligation to make a final payment.

Results of Operations

Comparison of the Three Months Ended March 31, 2023 and 2022

The following table summarizes our results of operations for the three months ended March 31, 2023 and 2022 (in thousands):

	Three Months Ended March 31,		
	2023	**2022**	**Change**
Operating expenses:			
Research and development	$ 11,479	$ 17,660	$ (6,181)
General and administrative	18,598	20,246	$ (1,648)
Total operating expenses	30,077	37,906	(7,829)
Loss from operations	(30,077)	(37,906)	7,829
Other income (expense):			
Interest income	1,460	7	1,453
Interest expense	(9,217)	(2,759)	(6,458)
Other income (expense)	20	(7)	27
Total other income expense	(7,737)	(2,759)	(4,978)
Net loss	$ (37,814)	$ (40,665)	$ 2,851

Research and Development Expenses. Research and development expenses were $11.5 million and $17.7 million for the three months ended March 31, 2023 and 2022, respectively. The decrease of $6.2 million consisted of a $3.9 million reduction of clinical trial cost, $2.7 million of chemistry manufacturing and controls, or CMC, costs related to vonoprazan, and $0.2 million of regulatory costs partially offset by an increase of $0.6 million of personnel-related and consulting expenses.

General and Administrative Expenses. General and administrative expenses were $18.6 million and $20.2 million for the three months ended March 31, 2023 and 2022, respectively. The decrease of $1.6 million was due to decreases of $4.4 million in professional services expenses for commercial, medical affairs and other services and $0.3 million of other expense, partially offset by a $3.1 million increase in personnel related expense. Due to the planned continued buildout of administrative and commercial functions we expect general and administrative expenses to increase in future periods.

Other Income (Expense). Other expense of $7.7 million for the three months ended March 31, 2023 consisted of $9.2 million of interest expense under the Hercules Loan Agreement and Revenue Interest Financing Agreement, partially offset by $1.5 million of interest income on deposits. Other expense of $2.8 million for the three months ended March 31, 2022 consisted of interest expense under the Hercules Loan Agreement.

Liquidity and Capital Resources

We have incurred net losses and negative cash flows from operations since our inception and anticipate we will continue to incur net losses for the foreseeable future. As of March 31, 2023, we had cash and cash equivalents of $129.6 million.

Loan Agreement with Hercules

On September 17, 2021, or the Closing Date, we entered into a Loan and Security Agreement, as amended by the Third Loan Amendment, the Loan Agreement, with Hercules Capital, Inc. (in such capacity, the "Agent" or "Hercules"), as administrative agent and collateral agent and as a lender and the other financial institutions that from time to time become parties to the Loan Agreement as lenders (collectively, the "Lenders").

On May 9, 2023, we entered into an amendment to the Loan Agreement, or the Third Loan Amendment, pursuant to which, among other things, (i) the second tranche availability was extended from May 15, 2023, to December 15, 2023, to become available on October 1, 2023 or earlier subject to certain conditions, (ii) the third tranche availability was extended from September 30, 2023, to December 15, 2023, to become available on October 1, 2023 or earlier subject to certain conditions, (iii) the effective date of the Performance Covenants (as defined below) was amended to provide an option to extend the covenant trigger date, subject to certain conditions, and (iv) the form of warrants to purchase shares of our common stock to be issued upon drawdowns of future tranches was amended such that the exercise price of such warrants shall be equal to the lesser (i) of $11.6783, which is the trailing ten-day volume-weighted average price, or VWAP, prior to entering into the Third Loan Amendment and (ii) the trailing ten-day VWAP preceding the date on which we drawdown future tranches. In connection with the Third Loan Amendment, a tranche extension amendment fee of $150,000 and a covenant extension amendment fee of $100,000 was paid to the Agent.

The Loan Agreement provides for term loans in an aggregate principal amount of up to $200.0 million, or the Term Loan, under multiple tranches. The tranches consist of (i) a first tranche consisting of term loans in an aggregate principal amount of $100.0 million, all of which was funded on the Closing Date, or the First Advance, (ii) a second tranche consisting of up to an additional $50.0 million, available in minimum of $25.0 million per draw, which will become available to us through December 15, 2023, upon the earliest to occur of (a) October 1, 2023, (b) the FDA's approval of Company's new drug application (or supplemental new drug application) for vonoprazan for an indication relating to the healing and maintenance of healing of erosive esophagitis with an approved indication on the label that is generally consistent with that sought in Company's new drug application submission (or Company's supplemental new drug application submission, or the EE Milestone, and (c) upon the determination by the Agent's investment committee in its sole and unfettered discretion, (iii) a third tranche consisting of an additional $25.0 million, which will become available to us through December 15, 2023, upon the earliest to occur of (a) October 1, 2023, (b) the EE Milestone, and (c) upon the determination by the Agent's investment committee in its sole and unfettered discretion, and (iv) a fourth tranche consisting of up to an additional $25.0 million, which will be available, if specified conditions are met, through March 31, 2024, upon achievement of (a) FDA approval of our NDA for vonoprazan and amoxicillin, or its NDA for vonoprazan, amoxicillin and clarithromycin, in each case for an indication relating to the treatment of H. pylori with an approved indication on the claim that is generally consistent with that sought in our NDA submission; and (b) filing of an NDA or supplemental NDA for vonoprazan for indications relating to the healing and maintenance of healing of erosive GERD (milestones (a) and (b), or, together, the Second Performance Milestone). We intend to use the proceeds of the Term Loan advances for working capital and general corporate purposes.

The Term Loan will mature on October 1, 2026, the Maturity Date. The Term Loan bears (i) cash interest at a variable annual rate equal to the greater of (a) 5.50% and (b) the Prime Rate (as reported in the Wall Street Journal) plus 2.25%, the Interest Rate, and (ii) payment-in-kind interest at a per annum rate of interest equal to 3.35%. We may make payments of interest only through October 1, 2024, which may be extended to October 1, 2025, upon the achievement of the Second Performance Milestone on or prior to September 30, 2024 and the condition that no default or event of default exists, and which is further extendable to October 1, 2026, subject to FDA approval of our NDA (or supplemental NDA) for vonoprazan for an indication relating to the healing and maintenance of healing of erosive esophagitis with an approved indication on the label that is generally consistent with that sought in our NDA submission (or supplemental NDA submission), and subject to the achievement of the EE Milestone, on or prior to September 30, 2025 and no default or event of default exists, or the interest only period. After the interest-only period, the principal balance and related interest will be required to be repaid in equal monthly installments and continuing until the Maturity Date.

The Loan Agreement contains customary closing fees, prepayment fees and provisions, events of default, and representations, warranties and covenants, including a financial covenant requiring us to maintain certain levels of cash subject to a control agreement in favor of the Agent (minus accounts payable not paid within 120 days of invoice) ("Qualified Cash"), and commencing on November 15, 2023, if the outstanding loan amount is greater than $100.0 million, comply with either (a) at all times (i) maintain Qualified Cash in an amount greater than or equal to (x) the outstanding principal amount of the term loans, multiplied by (y)(i) at all times prior to the Second Performance Milestone and the EE Milestone (together, the Approval Milestone), 65% and (ii) at all times after the Approval Milestone, 45%, (ii) meet market capitalization of at least $900.0 million, or (b) meet trailing three-month net product revenue from the sale of vonoprazan and products containing vonoprazan equal to or greater than the least of (x) 50% of projections, (y) the outstanding loan amount divided by 2.75, and (z) $65,000,000 (both (a) and (b), collectively, the Performance Covenants). Pursuant to the Third Loan Amendment, the effective date of the Performance Covenants will be extended from November 15, 2023, to May 15, 2024, if we achieve the EE Milestone prior to February 15, 2024.

As collateral for the obligations, we granted Hercules a senior security interest in all of our right, title, and interest in, to and under substantially all of our property, inclusive of intellectual property.

In connection with the entry into the Loan Agreement, we issued to Hercules a warrant, or the Warrant, to purchase a number of shares of our common stock equal to 2.5% of the aggregate amount of the Term Loan advances funded, and will issue to Hercules additional warrants when future Term Loan advances are funded. On the Closing Date, we issued a Warrant for 74,782 shares of common stock. The Warrant is exercisable for a period of seven years from the date of issuance at a per-share exercise price equal to $33.43, which was the closing price of our common stock on September 16, 2021. In connection with the entry into the Third Loan Amendment, we amended the form of warrants to be issued upon drawdowns of future tranches such that the exercise price of such warrants shall be equal to the lesser (i) of $11.6783, which was the trailing ten-day VWAP prior to entering into the Third Loan Amendment and (ii) the trailing ten-day VWAP preceding the date on which we drawdown future tranches. The exercise price and terms of the outstanding Warrant remain unchanged

Revenue Interest Financing Agreement

On May 3, 2022, we entered into a Revenue Interest Financing Agreement, or the Revenue Interest Financing Agreement, with entities managed or advised by NovaQuest Capital Management, or NQ, Sagard Holdings Manager LP, or Sagard, and Hercules Capital, Inc., or Hercules, together with NQ and Sagard, the "Initial Investors" pursuant to which we can receive up to $260 million in funding from the Initial Investors. Under the terms of the Revenue Interest Financing Agreement, we received $100 million at the initial closing and can receive an additional $160 million upon FDA approval of vonoprazan for treatment of Erosive GERD on or before March 31, 2024. In addition, we had the right to obtain a written commitment from a third party for up to (i) at any time prior to December 31, 2022, $15,000,000 in additional funding upon FDA approval of vonoprazan for Erosive GERD, or Approval Additional Funding, and (ii) at any time prior to June 30, 2024, $25,000,000 in additional funding for achievement of a sales milestone, or Milestone Additional Funding, and, together with the Approval Additional Funding, or the Additional Investor Funding. The Initial Investors had a right of first offer for any Additional Investor Funding.

On October 31, 2022, we entered into a Joinder and Waiver Agreement with the Initial Investors and CO Finance LVS XXXVII LLC, or the Additional Investor, and Hercules Capital, Inc. in its capacity as administrative agent and collateral agent for itself and the lenders under that certain Loan Agreement, or the Joinder Agreement, in respect of the Revenue Interest Financing Agreement. Under the terms of the Joinder Agreement, the Initial Investors waived their rights of first offer regarding the Additional Investor Funding and the Additional Investor joined the Revenue Interest Financing Agreement to extend commitments for the Additional Investor Funding. The total amount funded by the Initial Investors and any subsequent investors is referred to herein as the "Investment Amount."

Under the Revenue Interest Financing Agreement, the Initial Investors, and subsequent to the payment of the Approval Additional Funding, the Additional Investor, are entitled to receive a 10% royalty on net sales of products containing vonoprazan. The royalty rate is subject to a step-down on net sales exceeding certain annual thresholds and if we receive FDA approval for vonoprazan for an indication relating to the treatment of heartburn associated with Non-Erosive GERD. The investors' right to receive royalties on net sales will terminate when the investors have aggregate payments equal to 200% of the Investment Amount. In addition, at any time after the earlier of (i) April 30, 2024 and (ii) the date that the payment for Erosive GERD regulatory approval is made, we have the right to make a cap payment equal to 200% of the Investment Amount less any royalties already paid, at which time the agreement will terminate.

If the investors have not received aggregate payments of at least 100% of the Investment Amount by December 31, 2028, and at least 200% of the Investment Amount by December 31, 2037, each a Minimum Amount, then we will be obligated to make a cash payment to the investors in an amount sufficient to gross the investors up to the applicable Minimum Amount.

Upon the occurrence of an event of default taking place prior to April 1, 2025, between April 1, 2025, and April 1, 2028, and after April 1, 2028, we are obligated to pay 1.30 times Investment Amount, 1.65 times Investment Amount, and 2.0 times investment amount, respectively, less any amounts the Company previously paid pursuant to the agreement. Upon the occurrence of a change in control event taking place prior to the earlier of April 1, 2024, or FDA approval of vonoprazan for Erosive GERD, we are obligated to pay 200% of the Investment Amount plus either 15% of the Investment Amount if occurrence prior to May 3, 2023, or plus 30% of the Investment Amount if occurrence thereafter.

At-the-Market-Offering

On November 10, 2020, we entered into an Open Market Sale Agreement℠, or the Sales Agreement, with Jefferies LLC, or the Sales Agent, under which we may, from time to time, sell shares of our common stock having an aggregate offering price of up to $125.0 million through the Sales Agent, or the ATM Offering. Sales of our common stock made pursuant to the Sales Agreement, if any, will be made under our shelf registration statement on Form S-3 which was filed on November 10, 2020 and declared effective by the SEC on November 16, 2020. We are not obligated to, and we cannot provide any assurances that we will, make any sales of the shares under the Sales Agreement. The Sales Agreement may be terminated by the Sales Agent or us at any time. For the year ended December 31, 2022, we sold 2,414,897 shares of our common stock under the ATM Offering for net proceeds of approximately $24.6 million after deducting $0.8 million of issuance costs. For the three months ended March 31, 2023 we sold 1,514,219 shares for net proceeds of approximately $14.1 million after deducting $0.4 million of issuance costs. As of March 31, 2023, we utilized $39.9 million of the available $125.0 million under the ATM Offering.

Underwritten Public Offering

On December 16, 2020, the Company completed an underwritten public offering, in which it sold 2,250,000 shares of its common stock at a price of $42.00 per share for total gross proceeds of $94.5 million. The net purchase price after deducting underwriting discounts and commissions was $39.48 per share, which generated net proceeds of $88.8 million. We incurred an additional $0.2 million of offering expenses in connection with the public offering.

Funding Requirements

Based on our current operating plan, we believe that our existing cash and cash equivalents together with the drawdown of the remaining $100 million under our Loan Agreement with Hercules are sufficient to fund operations for at least the next twelve months and receipt of $175 million in additional milestone payments under our Revenue Interest Financing Agreement, will be sufficient to fund our operations through the end of 2024. We expect such amounts will allow us to complete our ongoing Phase 3 clinical trial studying vonoprazan for Non-Erosive GERD (daily dosing), and, if our post-complete response letter submissions concerning NVP are approved by FDA, launch vonoprazan for *H. pylori* and Erosive GERD. However, our forecast of the period of time through which our financial resources will be adequate to support our operations is a forward-looking statement that involves risks and uncertainties and actual results could vary materially. We have based this estimate on assumptions that may prove to be wrong, and we could deplete our capital resources sooner than we expect. Additionally, the process of testing product candidates in clinical trials is costly, and the timing of progress and expenses in these trials is uncertain.

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

- the initiation, type, number, scope, results, costs and timing of our clinical trials of vonoprazan, and preclinical studies or clinical trials of other potential product candidates we may choose to pursue in the future, including feedback received from regulatory authorities;
- the costs and timing of manufacturing for vonoprazan or any future product candidates, including commercial scale manufacturing if any product candidate is approved;
- the costs, timing and outcome of regulatory review of vonoprazan or any future product candidates;
- the costs of obtaining, maintaining and enforcing our patents and other intellectual property rights;
- our efforts to enhance operational systems and hire additional personnel to satisfy our obligations as a public company, including enhanced internal controls over financial reporting;

- the costs associated with hiring additional personnel and consultants as our business grows, including additional executive officers and clinical development personnel;
- the timing and amount of the milestone or other payments we must make to Takeda and any future licensors;
- the costs and timing of establishing or securing sales and marketing capabilities for vonoprazan or any future product candidate;
- our ability to achieve sufficient market acceptance, coverage and adequate reimbursement from third-party payers and adequate market share and revenue for any approved products;
- patients' willingness to pay out-of-pocket for any approved products in the absence of coverage and/or adequate reimbursement from third-party payers;
- the terms and timing of establishing and maintaining collaborations, licenses and other similar arrangements; and
- costs associated with any products or technologies that we may in-license or acquire.

Until such time, if ever, as we can generate substantial product revenues to support our cost structure, we expect to finance our cash needs through equity offerings, the Loan Agreement, the Revenue Interest Financing Agreement, debt financings, or other capital sources, including potential collaborations, licenses and other similar arrangements. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our stockholders will be or could be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect the rights of our common stockholders. Debt financing and 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 collaborations, or other similar arrangements with third parties, we may have to relinquish valuable rights to our technologies, future revenue streams, research programs or product candidates or grant licenses on terms that may not be favorable to us and/or may reduce the value of our common stock. If we are unable to raise additional funds through equity or debt financings when needed, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and market our product candidates even if we would otherwise prefer to develop and market such product candidates ourselves.

Including our existing cash and cash equivalents, we believe that we have sufficient working capital on hand to fund operations such that there is no substantial doubt as to our ability to continue as a going concern at the date the financial statements were issued. There can be no assurance that we will be successful in acquiring additional funding, that our projections of future working capital needs will prove accurate, or that any additional funding would be sufficient to continue operations in future years. Based on our current operating plan, we believe that our existing cash and cash equivalents together with the drawdown of the remaining $100 million under our Loan Agreement with Hercules are sufficient to fund operations for at least the next twelve months and receipt of $175 million in additional milestone payments under our Revenue Interest Financing Agreement, will be sufficient to fund our operations through the end of 2024.

Cash Flows

The following table sets forth a summary of the net cash flow activity for each of the periods indicated (in thousands):

	Three Months Ended March 31,		
	2023	**2022**	**$ Change**
Net cash provided by (used in):			
Operating activities	$ (39,669)	$ (44,757)	$ 5,088
Investing activities	(214)	(67)	(147)
Financing activities	14,072	—	14,072
Net decrease in cash	$ (25,811)	$ (44,824)	$ 19,013

Operating Activities

Net cash used in operating activities was approximately $39.7 million and $44.8 million for the three months ended March 31, 2023 and 2022, respectively. The net cash used in operating activities for the three months ended March 31, 2023 was due to approximately $23.3 million spent on ongoing research and development and general and administrative activities and a $16.4

million net change in operating assets and liabilities. The net change in operating assets and liabilities primarily related to a $11.3 million decrease in accounts payable and accrued expenses (including clinical trial expenses), a $5.1 million increase in prepaid assets and other current assets. The net cash used in operating activities for the three months ended March 31, 2022 was due to approximately $32.8 million spent on ongoing research and development and general and administrative activities and a $12.0 million net change in operating assets and liabilities. The net change in operating assets and liabilities primarily related to a $7.5 million decrease in accounts payable and accrued expenses (including clinical trial expenses), a $4.0 million increase in prepaid assets and other current assets, and a $0.5 million increase in other long-term assets.

Investing Activities

Net cash used in investing activities for the three months ended March 31, 2023 and 2022, was primarily due to the cash we paid for acquiring property, plant and equipment.

Financing Activities

Net cash provided by financing activities for the three months ended March 31, 2023 was $14.1 million. No cash was provided by financing activities for the three months ended March 31, 2022.

Contractual Obligations and Commitments

Other than disclosed below, there were no material changes outside the ordinary course of our business during the three months ended March 31, 2023 to the information regarding our contractual obligations that was disclosed in Management's Discussion and Analysis of Financial Condition and Results of Operations contained in our 2022 Form 10-K.

Critical Accounting Policies and Significant Judgments and 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 generally accepted accounting principles in the United States, or GAAP. The preparation of our financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities and expenses and the disclosure of contingent assets and liabilities in our financial statements and accompanying notes. We evaluate these estimates and judgments on an ongoing basis. We base our estimates on historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

For a description of our critical accounting policies, please see the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations — Critical Accounting Policies and Significant Judgments and Estimates" contained in our 2022 Form 10-K. There have not been any material changes to the critical accounting policies discussed therein during the three months ended March 31, 2023.

Other Company Information

JOBS Act

As an emerging growth company under the Jumpstart Our Business Startups Act of 2012, or the JOBS Act, we can take advantage of an extended transition period for complying with new or revised accounting standards. This allows an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have irrevocably elected not to avail ourselves of this exemption and, therefore, we will be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies. We intend to rely on other exemptions provided by the JOBS Act, including without limitation, not being required to comply with the auditor attestation requirements of Section 404(b) of Sarbanes-Oxley.

We will remain an emerging growth company until the earliest of (i) the last day of the fiscal year following the fifth anniversary of the consummation of our IPO, (ii) the last day of the fiscal year in which we have total annual gross revenue of at least $1.235 billion, (iii) the last day of the fiscal year in which we are deemed to be a "large accelerated filer" as defined in Rule 12b-2 under the Exchange Act, which would occur if the market value of our common stock held by non-affiliates exceeded $700.0 million as of the last business day of the second fiscal quarter of such year, or (iv) the date on which we have issued more than $1.0 billion in non-convertible debt securities during the prior three-year period.

Recent Accounting Pronouncements

The information required by this item is included in Note 1, Organization, Basis of Presentation and Summary of Significant Accounting Policies included in Part 1, Item 1 of this quarterly report.

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.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

As of March 31, 2023, there have been no material changes surrounding our market risk, including interest rate risk, foreign currency exchange risk, and inflation risk, from the discussion provided in "Management's Discussion and Analysis of Financial Condition and Results of Operations – Quantitative and Qualitative Disclosures About Market Risk" of our 2022 Form 10-K.

Item 4. Controls and Procedures

Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our periodic and current reports that we file with the SEC is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable and not absolute assurance of achieving the desired control objectives. In reaching a reasonable level of assurance, management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. In addition, the design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, control may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

Our management, with the participation of our principal executive officer and principal financial officer, has evaluated the effectiveness of our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act as of the end of the period covered by this quarterly report. Based on such evaluation, our principal executive officer and principal financial officer have concluded that as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting during the three months ended March 31, 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

We are not currently subject to any material legal proceedings. From time to time, we may be involved in legal proceedings or subject to claims incident to the ordinary course of business. Regardless of the outcome, such proceedings or claims can have an adverse impact on us because of defense and settlement costs, diversion of resources and other factors, and there can be no assurances that favorable outcomes will be obtained.

Item 1A. Risk Factors

There have been no material changes to the risk factors disclosed in Part I, Item 1A, "Risk Factors" of our 2022 Form 10-K.

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

Unregistered Sales of Equity Securities

None.

Issuer Repurchases of Equity Securities

None.

Item 3. Defaults Upon Senior Securities

Not Applicable.

Item 4. Mine Safety Disclosures

Not Applicable.

Item 5. Other Information

The information set forth below in this Item 5 is included herein in lieu of reporting on a Current Report on Form 8-K under Item 1.01 Entry into a Material Definitive Agreement, Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant and Item 3.02 Unregistered Sales of Equity Securities.

Amendment to Loan and Security Agreement

On May 9, 2023, the Company entered into the Third Amendment to Loan and Security Agreement, or the Third Loan Amendment, with the lenders thereunder and Hercules Capital, Inc., in its capacity as administrative agent and collateral agent and as a lender (in such capacity, the "Agent" or "Hercules"), pursuant to which, among other things, (i) the second tranche availability was extended from May 15, 2023, to December 15, 2023, to become available on October 1, 2023 or earlier subject to certain conditions, (ii) the third tranche availability was extended from September 30, 2023, to December 15, 2023, to become available on October 1, 2023 or earlier subject to certain conditions, (iii) the effective date of the Performance Covenants was amended to provide an option to extend the covenant trigger date, subject to certain conditions, and (iv) the warrant agreement with Hercules was amended as described below. In connection with the Third Loan Amendment, a tranche extension amendment fee of $150,000 and a covenant extension amendment fee of $100,000 was paid to the Agent.

The foregoing description of the terms of the Third Loan Amendment is not complete and is qualified in its entirety by reference to the full text of the Third Loan Amendment, which is filed as an exhibit to this Quarterly Report on Form 10-Q.

Amendment to Warrants

In connection with the entry into the Third Loan Amendment, the Company amended the form of warrant agreement (the "Revised Warrant Agreement") to purchase shares of the Company's common stock, par value $0.0001 per share (the "Common Stock") to be issued upon drawdowns of future tranches under the Term Loan. The exercise price under the Revised Warrant Agreement shall be equal to the lesser (i) of $11.6783, which was the trailing ten-day volume-weighted average price, or VWAP, prior to entering into the Third Loan Amendment, and (ii) the trailing ten-day VWAP preceding the date on which the Company drawdown future tranches. The number of shares of Common Stock shall continue to be equal to 2.5% of the amount of the Term

Loan advances funded, as such amounts are funded. The warrants shall be exercisable for a period of seven years from the date of issuance.

The exercise price and terms of the outstanding warrant to purchase 74,783 shares of our Common Stock previously issued to Hercules remain unchanged. The Company entered into the First Amendment to Warrant (the "Warrant Amendment") to make technical changes to the defined terms to provide that the outstanding warrant only covers the initial $100.0 million advance already drawn under the Term Loan.

The foregoing descriptions of the terms of the Revised Warrant Agreement and the Warrant Amendment are not complete and are qualified in their entirety by reference to the full text of the Revised Warrant Agreement and the Warrant Amendment, which is filed as an exhibit to this Quarterly Report on Form 10-Q.

Item 6. Exhibits

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	Date	Number	
3.1	Amended and Restated Certificate of Incorporation	8-K	10/29/19	3.1	
3.2	Amended and Restated Bylaws	8-K	09/25/2020	3.1	
4.1	Form of Common Stock Certificate	S-1/A	10/15/19	4.1	
4.2	Warrant to purchase stock issued to Silicon Valley Bank, dated May 14, 2019	S-1	9/30/19	4.3	
4.3	Warrant to purchase stock issued to WestRiver Innovation Lending Fund VIII, L.P., dated May 14, 2019	S-1	9/30/19	4.4	
4.4	Warrant to purchase stock issued to Hercules Capital, dated September 17, 2021	10-Q	11/8/21	10.2	
4.5	First Amendment to Warrant to purchase stock issued to Hercules Capital, dated May 9, 2023				X
4.6	Form of Warrant to purchase stock issuable pursuant to the Loan and Security Agreement, as amended, by and between the Registrant and Hercules Capital, Inc.				X
4.7	Note Purchase Agreement, dated May 7, 2019, by and among the Registrant and the other parties party thereto, as amended	S-1/A	10/15/19	4.5	
10.1^	Third Amendment to Loan and Security Agreement, dated May 9, 2023, by and among the Registrant and Hercules Capital, Inc.				X
31.1	Certification of Chief Executive Officer of Phathom Pharmaceuticals, Inc., as required by Rule 13a-14(a) or Rule 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				X
31.2	Certification of Chief Financial Officer of Phathom Pharmaceuticals, Inc., as required by Rule 13a-14(a) or Rule 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				X
32.1*	Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				X
32.2*	Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				X
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because XBRL tags are embedded within the Inline XBRL document.				X
101.SCH	Inline XBRL Taxonomy Extension Schema Document				X
101.CAL	Inline XBRL Taxonomy Calculation Linkbase Document				X
101.LAB	Inline XBRL Taxonomy Label Linkbase Document				X
101.PRE	Inline XBRL Presentation Linkbase Document				X
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document				X
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)				

# Indicates management contract or compensatory plan
* This certification is deemed not filed for purpose of section 18 of the Exchange Act or otherwise subject to the liability of that section, nor shall it be deemed incorporated by reference into any filing under the Securities Act or the Exchange Act.
^Certain exhibits and schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The registrant hereby undertakes to furnish supplementally a copy of any omitted exhibit or schedule upon request by the SEC.

SIGNATURES

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

PHATHOM PHARMACEUTICALS, INC.

Date: May 10, 2023

By: /s/ Terrie Curran
Terrie Curran
Chief Executive Officer and Director
(Principal Executive Officer)

Date: May 10, 2022

By: /s/ Molly Henderson
Molly Henderson
Chief Financial and Business Officer
(Principal Financial and Accounting Officer)

Exhibit 4.5

FIRST AMENDMENT TO WARRANT

THIS FIRST AMENDMENT TO WARRANT (this "Amendment"), dated as of May 9, 2023, is entered into by and among PHATHOM PHARMACEUTICALS, INC., a Delaware corporation ("Company") and the several banks and other financial institutions or entities from time to time party to the Loan Agreement (collectively, referred to as the "Warrantholders").

SECTION 1Definitions; Interpretation.

(a) For the purposes of this Amendment:

(i) "**Third Amendment**" means that certain Third Amendment to Loan and Security Agreement, dated on or around the date hereof, by and among the Company in its capacity as borrower, the Warrantholders (other than Sagard Healthcare Royalty Partners, LP) in their capacities as required lenders, and Hercules Capital, Inc. in its capacity as agent.

(ii) "**Third Amendment Effective Date**" has the meaning given to such term in the Third Amendment.

(iii) "**Warrant**" means (a) that certain Warrant Agreement to Purchase Shares of Common Stock of Borrower dated September 17, 2021 between Company and Hercules Capital, Inc., (b) that certain Warrant Agreement to Purchase Shares of Common Stock of Borrower dated September 17, 2021 between Company and Hercules Capital IV, L.P., (c) that certain Warrant Agreement to Purchase Shares of Common Stock of Borrower dated September 17, 2021 between Company and Hercules Private Global Venture Growth Fund I L.P., (d) that certain Warrant Agreement to Purchase Shares of Common Stock of Borrower dated May 4, 2022 between Company and Hercules Private Credit Fund 1, L.P., or (e) that certain Warrant Agreement to Purchase Shares of Common Stock of Borrower dated May 3, 2022 between Phathom and Sagard Healthcare Royalty Partners, LP, in each case, as amended, modified, supplemented or restated prior to the Third Amendment Effective Date.

SECTION 2Amendments to the Warrants. Upon the Third Amendment Effective Date, each Warrant is hereby amended as follows:

(a) New Definition. The following definition is added to Section 1(a) of each Warrant in its proper alphabetical order:

> ""Tranche I Term Loan Advance" means the Term Loan Advance (as defined in the Loan Agreement) drawn under Section 2.1(a)(i) of the Loan Agreement."

(b) Amended and Restated Definition. The following definition appearing in Section 1(a) of each Warrant is hereby amended in its entirety and replaced with the following:

> ""Warrant Coverage" means 2.50% times the principal amount of the Tranche I Term Loan Advance made and funded by the Warrantholder under the Loan Agreement (but exclusive of any paid-in-kind interest that is capitalized as principal)."

SECTION 3Miscellaneous.

(a) **Governing Law.** THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA,

EXCLUDING CONFLICT OF LAWS PRINCIPLES THAT WOULD CAUSE THE APPLICATION OF LAWS OF ANY OTHER JURISDICTION.

(b) **Incorporation by Cross Reference.** Section 8(a), 8(c), 8(d), 8(e), 8(g), 8(h), 8(i) and 8(j) of the Third Amendment are incorporated in their entirety, *mutatis mutandis*, into the terms of this Amendment.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment, as of the date first above written.

COMPANY:

PHATHOM PHARMACEUTICALS, INC.

Signature: /s/ Molly Henderson

Print Name: Molly Henderson

Title: Chief Financial Officer

[SIGNATURES CONTINUE ON THE NEXT PAGE]

WARRANTHOLDERS:

HERCULES CAPITAL, INC.

Signature: /s/ Seth Meyer

Print Name: Seth Meyer

Title: Chief Financial Officer

HERCULES CAPITAL IV, L.P.

By: Hercules Technology SBIC Management, LLC, its General Partner

By: Hercules Capital, Inc., its Manager

Signature: /s/ Seth Meyer

Print Name: Seth Meyer

Title: Chief Financial Officer

HERCULES PRIVATE CREDIT FUND 1 L.P.

By: Hercules Adviser LLC, its Investment Adviser

By: /s/ Seth Meyer

Name: Seth Meyer

Title: Authorized Signatory

Exhibit 4.5

HERCULES PRIVATE GLOBAL VENTURE GROWTH FUND I L.P.

By: Hercules Private Global Venture Growth Fund GP I LLC, its general partner

By: Hercules Adviser LLC, its sole member

Signature: /s/ Seth Meyer

Print Name: Seth Meyer

Title: Chief Financial Officer

SAGARD HEALTHCARE ROYALTY PARTNERS, LP

By: Sagard Healthcare Royalty Partners GP LLC, its general partner

Signature: /s/ Jason Sneah

Print Name: Jason Sneah

Title: Manager

Signature: /s/ Adam Vigna

Print Name: Adam Vigna

Title: Chief Investment Officer

THIS WARRANT AND THE SHARES ISSUABLE UPON EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY STATE SECURITIES LAWS, AND MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR, SUBJECT TO SECTION 11 HEREOF, AN OPINION OF COUNSEL (WHICH MAY BE COMPANY COUNSEL) REASONABLY SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE ACT, OR ANY APPLICABLE STATE SECURITIES LAWS.

FORM OF WARRANT AGREEMENT

To Purchase Shares of the Common Stock of

PHATHOM PHARMACEUTICALS, INC.

Dated as of [•], 202[•] (the "Effective Date")

WHEREAS, Phathom Pharmaceuticals, Inc., a Delaware corporation (the "Company"), has entered into a Loan and Security Agreement of September 17, 2021 (as amended by that certain Consent and First Amendment to Loan and Security Agreement dated as of May 3, 2022, as further amended by that certain Second Amendment to Loan and Security Agreement dated as of September 26, 2022, as further amended by that certain Third Amendment to Loan and Security Agreement and Warrant dated as of May 9, 2023, and as further amended, restated, supplemented or otherwise modified from time to time, collectively, the "Loan Agreement") with Hercules Capital, Inc., a Maryland corporation, in its capacity as administrative and collateral agent, [*insert legal name and jurisdiction of formation of Lender*] (the "Warrantholder"), and other lender parties thereto;

WHEREAS, pursuant to the Loan Agreement and as additional consideration to the Warrantholder for, among other things, its agreements in the Loan Agreement, the Company has agreed to issue to the Warrantholder this Warrant Agreement, evidencing the right to purchase shares of the Company's Common Stock (this "Warrant", "Warrant Agreement", or this "Agreement", and together with any additional Warrants issued upon any permitted transfer of this Warrant hereunder, collectively, the "Warrants");

NOW, THEREFORE, in consideration of the Warrantholder having executed and delivered the Loan Agreement and provided the financial accommodations contemplated therein, and in consideration of the mutual covenants and agreements contained herein, the Company and the Warrantholder agree as follows:

SECTION 1.GRANT OF THE RIGHT TO PURCHASE COMMON STOCK.

(a) For value received, the Company hereby grants to the Warrantholder, and the Warrantholder is entitled, upon the terms and subject to the conditions hereinafter set forth, to subscribe for and purchase, from the Company, up to the number of fully paid and non-assessable shares of Common Stock (as defined below) as determined pursuant to Section 1(b) below, at a purchase price per share equal to the Exercise Price (as defined below). The number and Exercise Price of such shares are subject to adjustment as provided in Section 8. As used herein, the following terms shall have the following meanings:

"Act" means the Securities Act of 1933, as amended.

"Charter" means the Company's Certificate of Incorporation or other constitutional document, as may be amended and in effect from time to time.

"Common Stock" means the Company's common stock, $0.0001 par value per share, as presently constituted under the Charter, and any class and/or series of Company capital stock for or into which such common stock may be converted or exchanged in a reorganization, recapitalization or similar transaction.

"Exercise Price" means $[•], subject to adjustment from time to time in accordance with the provisions of this Warrant.

"Liquid Sale" means the closing of a Merger Event in which the consideration received by the Company and/or its shareholders, as applicable, consists solely of cash and/or Marketable Securities.

"Marketable Securities" in connection with a Merger Event means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by the Warrantholder in connection with the Merger Event were the Warrantholder to exercise this Warrant on or prior to the closing thereof is then traded on a national securities exchange or over-the-counter market, and (iii) following the closing of such Merger Event, the Warrantholder would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received by the Warrantholder in such Merger Event were the Warrantholder to exercise this Warrant in full on or prior to the closing of such Merger Event, except to the extent that any such restriction (x) arises solely under federal or state securities laws, rules or regulations, and (y) does not extend beyond six (6) months from the closing of such Merger Event.

"Merger Event" means any of the following: (i) a sale, lease or other transfer of all or substantially all assets of the Company, (ii) any merger or consolidation involving the Company in which the Company is not the surviving entity or in which the outstanding shares of the Company's capital stock are otherwise converted into or exchanged for shares of capital stock or other securities or property of another entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or (iii) any sale by holders of the outstanding voting equity securities of the Company in a single transaction or series of related transactions of shares constituting a majority of the outstanding combined voting power of the Company.

"Purchase Price" means, with respect to any exercise of this Warrant, an amount equal to the then-effective Exercise Price multiplied by the number of shares of Common Stock as to which this Warrant is then exercised.

"Warrant Coverage" means 2.50% times the principal amount of the Term Loan Advance (as defined in the Loan Agreement) made and funded by the Warrantholder under the Loan Agreement on the Effective Date (but exclusive of any paid-in-kind interest that is capitalized as principal).

(b) Number of Shares. This Warrant shall be exercisable for a number of shares of Common Stock equal to the quotient derived by dividing (i) the Warrant Coverage by (ii) the Exercise Price, subject to adjustment from time to time in accordance with the provisions of this Warrant.

SECTION 2.TERM OF THE AGREEMENT.

The term of this Agreement and the right to purchase Common Stock as granted herein shall commence on the Effective Date and, subject to Section 8(a) below, shall be exercisable for a period ending upon the seventh (7th) anniversary of the Effective Date.

SECTION 3.EXERCISE OF THE PURCHASE RIGHTS.

(a) Exercise. The purchase rights set forth in this Agreement are exercisable by the Warrantholder, in whole or in part, at any time, or from time to time, prior to the expiration of the term set forth in Section 2, by tendering to the Company at its principal office a notice of exercise in the form attached hereto as Exhibit I (the "Notice of Exercise"), duly completed and executed. Promptly upon receipt of the Notice of Exercise and the payment of the Purchase Price in accordance with the terms set forth below, and in no event later than three (3) business days thereafter, the Company or its transfer agent shall either (i) issue to the Warrantholder a certificate for the number of shares of Common Stock purchased or (ii) credit the same via book entry to the Warrantholder, and the Company shall execute the acknowledgment of exercise in the form attached hereto as Exhibit II (the "Acknowledgment of Exercise") indicating the number of shares which remain subject to future purchases under this Warrant, if any.

The Purchase Price may be paid at the Warrantholder's election either (i) by cash or check, or (ii) by surrender of all or a portion of the Warrant for shares of Common Stock to be exercised under this Agreement and, if applicable, an amended Agreement setting forth the remaining number of shares purchasable hereunder, as determined below ("Net Issuance"). If the Warrantholder elects the Net Issuance method, the Company will issue shares of Common Stock in accordance with the following formula:

$$X = \frac{Y(A-B)}{A}$$

Where: X = the number of shares of Common Stock to be issued to the Warrantholder.

Y = the number of shares of Common Stock requested to be exercised under this Agreement.

A = the then-current fair market value of one (1) share of Common Stock at the time of exercise of this Warrant.

B = the then-effective Exercise Price.

For purposes of the above calculation, the current fair market value of shares of Common Stock shall mean with respect to each share of Common Stock:

(i) at all times when the Common Stock is traded on a national securities exchange, inter-dealer quotation system or over-the-counter bulletin board service, the average of the closing prices over a five (5) day period ending three (3) days before the day the current fair market value of the securities is being determined;

(ii) if the exercise is in connection with a Merger Event, the fair market value of a share of Common Stock shall be deemed to be the per share value received by the holders of the outstanding shares of Common Stock pursuant to such Merger Event as determined in accordance with the definitive transaction documents executed among the parties in connection therewith; or

(iii) in cases other than as described in the foregoing clauses (i) and (ii), the current fair market value of a share of Common Stock shall be determined in good faith by the Company's Board of Directors.

Upon partial exercise by either cash or Net Issuance, prior to the expiration or earlier termination hereof, the Company shall promptly issue an amended Agreement representing the remaining number of shares purchasable hereunder. All other terms and conditions of such amended Agreement shall be identical to those contained herein, including, but not limited to the Effective Date hereof.

(b) Exercise Prior to Expiration. To the extent this Warrant is not previously exercised as to all shares of Common Stock subject hereto, and if the then-current fair market value of one share of Common Stock is greater than the Exercise Price then in effect, or, in the case of a Liquid Sale, where the value per share of Common Stock (as determined as of the closing of such Liquid Sale in accordance with the definitive agreements executed by the parties in connection with such Merger Event) to be paid to the holders thereof is greater than the Exercise Price then in effect, this Agreement shall be deemed automatically exercised on a Net Issuance basis pursuant to Section 3(a) (even if not surrendered) as of immediately before its expiration determined in accordance with Section 2. For purposes of such automatic exercise, the fair market value of one share of Common Stock upon such expiration shall be determined pursuant to Section 3(a). To the extent this Warrant or any portion hereof is deemed automatically exercised pursuant to this Section 3(b), the Company agrees to promptly notify the Warrantholder of the number of shares of Common Stock if any, the Warrantholder is to receive by reason of such automatic exercise, and to issue or cause its transfer agent to issue a certificate or a book-entry credit to the Warrantholder evidencing such shares.

SECTION 4.RESERVATION OF SHARES.

During the term of this Agreement, the Company will at all times have authorized and reserved a sufficient number of shares of its Common Stock to provide for the exercise of the rights to purchase Common Stock as provided for herein. If at any time during the term hereof the number of authorized but unissued shares of Common Stock shall not be sufficient to permit exercise of this Warrant in full, the Company will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes.

SECTION 5.NO FRACTIONAL SHARES OR SCRIP.

No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Agreement, but in lieu of such fractional shares the Company shall make a cash payment therefor in an amount equal to the product of (a) the Exercise Price then in effect multiplied by (b) the fraction of a share.

SECTION 6.NO RIGHTS AS SHAREHOLDER.

Without limitation of any provision hereof, the Warrantholder agrees that this Agreement does not entitle the Warrantholder to any voting rights or other rights as a shareholder of the Company prior to the exercise of any of the purchase rights set forth in this Agreement.

SECTION 7.WARRANTHOLDER REGISTRY.

The Company shall maintain a registry showing the name and address of the registered holder of this Agreement. The Warrantholder's initial address, for purposes of such registry, is set forth in Section 12(g) below. The Warrantholder may change such address by giving written notice of such changed address to the Company.

SECTION 8.ADJUSTMENT RIGHTS.

The Exercise Price and the number of shares of Common Stock purchasable hereunder are subject to adjustment from time to time, as follows:

(a) Merger Event. In connection with a Merger Event that is a Liquid Sale, this Warrant shall, on and after the closing thereof, automatically and without further action on the part of any party or other person, represent the right to receive the consideration payable on or in respect of all shares of Common Stock that are issuable hereunder as of immediately prior to the closing of such Merger Event less the Purchase Price for all such shares of Common Stock (such consideration to include both the consideration payable at the closing of such Merger Event and all deferred consideration payable thereafter, if any, including, but not limited to, payments of amounts deposited at such closing into escrow and payments in the nature of earn-outs, milestone payments or other performance-based payments), and such Merger Event consideration shall be paid to the Warrantholder as and when it is paid to the holders of the outstanding shares of Common Stock. In connection with a Merger Event that is not a Liquid Sale, the Company shall cause the successor or surviving entity to assume this Warrant and the obligations of the Company hereunder on the closing thereof, and thereafter this Warrant shall be exercisable for the same number and type of securities or other property as the Warrantholder would have received in consideration for the shares of Common Stock issuable hereunder had it exercised this Warrant in full as of immediately prior to such closing, at an aggregate Exercise Price no greater than the aggregate Exercise Price in effect as of immediately prior to such closing, and subject to further adjustment from time to time in accordance with the provisions of this Warrant. The provisions of this Section 8(a) shall similarly apply to successive Merger Events.

(b) Reclassification of Shares. Except for Merger Events subject to Section 8(a), if the Company at any time shall, by combination, reclassification, exchange or subdivision of securities or otherwise, change any of the securities as to which purchase rights under this Agreement exist into the same or a different number of securities of any other class or classes of securities, this Agreement shall thereafter represent the right to acquire such number and kind of securities as would have been issuable as the result of such change with respect to the securities which were subject to the purchase rights under this Agreement immediately prior to such combination, reclassification, exchange, subdivision or other change. The provisions of this Section 8(b) shall similarly apply to successive combination, reclassification, exchange, subdivision or other change.

(c) Subdivision or Combination of Shares. If the Company at any time shall combine or subdivide its Common Stock, (i) in the case of a subdivision, the Exercise Price shall be proportionately decreased and the number of shares for which this Warrant is exercisable shall be proportionately increased, or (ii) in the case of a combination, the Exercise Price shall be proportionately increased and the number of shares for which this Warrant is exercisable shall be proportionately decreased.

(d) Dividends. If the Company at any time while this Agreement is outstanding and unexpired shall:

(i) pay a dividend with respect to the Common Stock payable in additional shares of Common Stock, then the Exercise Price shall be adjusted, from and after the date of determination of shareholders entitled to receive such dividend, to that price determined by multiplying the Exercise Price in effect immediately prior to such date of determination by a fraction (A) the numerator of which shall be the total number of shares of Common Stock outstanding immediately prior to such dividend or distribution, and (B) the denominator of which shall be the total number of shares of Common Stock outstanding immediately after such dividend or distribution, and the number of shares of Common Stock for which this Warrant is exercisable shall be proportionately increased; or

(ii) make any other dividend or distribution on or with respect to Common Stock, except any dividend or distribution (A) in cash, or (B) specifically provided for in any other clause of this Section 8, then, in each such case, provision shall be made by the Company such that the Warrantholder shall receive upon exercise or conversion of this Warrant a proportionate share of any such dividend or distribution as though it were the holder of the Common Stock (or other stock for which the Common Stock is convertible) as of the record date fixed for the determination of the shareholders of the Company entitled to receive such dividend or distribution.

(e) Notice of Certain Events. If: (i) the Company shall declare any dividend or distribution upon its outstanding Common Stock, payable in stock, cash, property or other securities (provided that, and to the extent applicable under the Loan Agreement, the Warrantholder in its capacity as lender under the Loan Agreement consents to such dividend); (ii) the Company shall offer for subscription pro rata to the holders of its Common Stock any additional shares of stock of any class or other rights; (iii) there shall be any Merger Event; or (iv) there shall be any voluntary dissolution, liquidation or winding up of the Company; then, in connection with each such event, the Company shall give the Warrantholder notice thereof at the same time and in the same manner as it gives notice thereof to the holders of outstanding Common Stock. In addition, if at any time the number of shares of Common Stock (or other securities of any other class or classes of securities of the Company for which this Warrant is then exercisable) outstanding is reduced such that the number of shares of Common Stock or other securities issuable upon exercise of this Warrant shall exceed five percent (5%) of the then outstanding class of such securities, then, within three (3) business days of such event, the Company shall give the Warrantholder written notice thereof.

SECTION 9.REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY.

(a) Reservation of Common Stock. The Company covenants and agrees that all shares of Common Stock that may be issued upon the exercise of the rights represented by this Warrant will, upon issuance, be validly issued and outstanding, fully paid and non-assessable, and will be free of any taxes, liens, charges or encumbrances of any nature whatsoever; provided, that the Common Stock issuable pursuant to this Agreement may be subject to restrictions on transfer under state and/or federal securities laws. The Company has made available to the Warrantholder true, correct and complete copies of its Charter and bylaws currently in effect. The issuance of certificates or book-entry credit for shares of Common Stock upon exercise of this Warrant shall be made without charge to the Warrantholder for any issuance tax in respect thereof, or other cost incurred by the Company in connection with such exercise and related issuance of shares of Common Stock. The Company further covenants and agrees that the Company will, at all times during the term hereof, have authorized and reserved, free from preemptive rights, a sufficient number of shares of Common Stock to provide for the exercise of the rights represented by this Warrant.

(b) Due Authority. The execution and delivery by the Company of this Agreement and the performance of all obligations of the Company hereunder, including the issuance to the Warrantholder of the right to acquire the shares of Common Stock, have been duly authorized by all necessary corporate action on the part of the Company. This Agreement: (i) does not violate the Charter or the Company's current bylaws; (ii) does not contravene any law or governmental rule, regulation or order applicable to the Company; and (iii) except as could not reasonably be expected to have a Material Adverse Effect (as defined in the Loan Agreement), does not and will not contravene any provision of, or constitute a default under, any indenture, mortgage, contract or other instrument to which the Company is a party or by which it is bound. This Agreement constitutes a legal, valid and binding agreement of the Company, enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or affecting creditors' rights generally (including,

without limitation, fraudulent conveyance laws) and by general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(c) Consents and Approvals. No consent or approval of, giving of notice to, registration with, or taking of any other action in respect of any state, federal or other governmental authority or agency is required with respect to the execution, delivery and performance by the Company of its obligations under this Agreement, except for the filing of notices pursuant to Regulation D under the Act and any filing required by applicable state securities law, which filings will be effective by the time required thereby.

(d) Exempt Transaction. Subject to the accuracy of the Warrantholder's representations in Section 10, the issuance of the Common Stock upon exercise of this Agreement will constitute a transaction exempt from (i) the registration requirements of Section 5 of the Act, in reliance upon Section 4(a)(2) thereof, and (ii) the qualification requirements of the applicable state securities laws.

(e) Information Rights. At all times (if any) after the Loan Agreement has been terminated and prior to the earlier to occur of (i) the date on which all shares of Common Stock issued on exercise of this Warrant have been sold, or (ii) the expiration or earlier termination of this Warrant, when the Company shall not be required to file reports pursuant to Section 13 or 15(d) of the Exchange Act or shall not have timely filed all such required reports, the Warrantholder shall be entitled to the information rights contained in Section 7.1(c) of the Loan Agreement, and in any such event (i) Section 7.1(c) of the Loan Agreement is hereby incorporated into this Agreement by this reference as though fully set forth herein and (ii) any such information shall be subject to the confidentiality obligations of Section 11.13 of the Loan Agreement, which is hereby incorporated into this Agreement by this reference as though fully set forth herein and such confidentiality obligations shall survive for three years from the expiration of this Warrant.

(f) Rule 144 Compliance. The Company shall, at all times prior to the earlier to occur of (i) the date of sale or other disposition by the Warrantholder of this Warrant or all shares of Common Stock issued on exercise of this Warrant, or (ii) the expiration or earlier termination of this Warrant if the Warrant has not been exercised in full or in part on such date, use commercially reasonable efforts to timely file all reports required under the Exchange Act and otherwise timely take all actions reasonably necessary to permit the Warrantholder to sell or otherwise dispose of this Warrant and the shares of Common Stock issued on exercise hereof pursuant to Rule 144 promulgated under the Act ("Rule 144"), provided that the foregoing shall not apply in the event of a Merger Event following which the successor or surviving entity is not subject to the reporting requirements of the Exchange Act. If the Warrantholder proposes to sell Common Stock issuable upon the exercise of this Agreement in compliance with Rule 144, then, upon the Warrantholder's written request to the Company, the Company shall furnish to the Warrantholder, within five (5) business days after receipt of such request, a written statement confirming the Company's compliance with the filing and other requirements of such Rule 144.

SECTION 10.REPRESENTATIONS AND COVENANTS OF THE WARRANTHOLDER.

This Agreement has been entered into by the Company in reliance upon the following representations and covenants of the Warrantholder:

(a) Investment Purpose. This Warrant and the shares issued on exercise hereof will be acquired for investment and not with a view to the sale or distribution of any part thereof in violation of applicable federal and state securities laws, and the Warrantholder has no present intention of selling or engaging in any public distribution of the same except pursuant to a registration or exemption.

(b) Private Issue. The Warrantholder understands that (i) the Common Stock issuable upon exercise of this Agreement is not, as of the Effective Date, registered under the Act or qualified under applicable state securities laws, and (ii) the Company's reliance on exemption from such registration is predicated on the representations set forth in this Section 10.

(c) Financial Risk. The Warrantholder has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its investment, and has the ability to bear the economic risks of its investment.

(d) Accredited Investor. The Warrantholder is an "accredited investor" within the meaning of Rule 501 of Regulation D promulgated under the Act, as presently in effect ("Regulation D").

(e) No Short Sales. The Warrantholder has not at any time on or prior to the Effective Date engaged in any short sales or equivalent transactions in the Common Stock. Warrantholder agrees that at all times from and after the Effective Date and on or before the expiration or earlier termination of this Warrant, it shall not engage in any short sales or equivalent transactions in the Common Stock.

SECTION 11.TRANSFERS.

Subject to compliance with applicable federal and state securities laws, this Agreement and all rights hereunder are transferable, in whole or in part, without charge to the holder hereof (except for transfer taxes) upon surrender of this Agreement properly endorsed. Each taker and holder of this Agreement, by taking or holding the same, consents and agrees that this Agreement, when endorsed in blank, shall be deemed negotiable, and that the holder hereof, when this Agreement shall have been so endorsed and its transfer recorded on the Company's books, shall be treated by the Company and all other persons dealing with this Agreement as the absolute owner hereof for any purpose and as the person entitled to exercise the rights represented by this Agreement. The transfer of this Agreement shall be recorded on the books of the Company upon receipt by the Company of a notice of transfer in the form attached hereto as Exhibit III (the "Transfer Notice"), at its principal offices and the payment to the Company of all transfer taxes and other governmental charges imposed on such transfer. Until the Company receives such Transfer Notice, the Company may treat the registered owner hereof as the owner for all purposes. Notwithstanding anything herein or in any legend to the contrary, the Company shall not require an opinion of counsel in connection with any sale, assignment or other transfer by the Warrantholder of this Warrant (or any portion hereof or any interest herein) or of any shares of Common Stock issued upon any exercise hereof to an affiliate (as defined in Regulation D) of the Warrantholder, provided that such affiliate confirms in writing to the Company that such affiliate is an "accredited investor" as defined in Regulation D.

SECTION 12.MISCELLANEOUS.

(a) Effective Date. The provisions of this Agreement shall be construed and shall be given effect in all respects as if it had been executed and delivered by the Company on the date hereof. This Agreement shall be binding upon any successors or assigns of the Company.

(b) Remedies. In the event of any default hereunder, the non-defaulting party may proceed to protect and enforce its rights either by suit in equity and/or by action at law, including but not limited to an action for damages as a result of any such default, and/or an action for specific performance for any default where the Warrantholder will not have an adequate remedy at law and where damages will not be readily ascertainable.

(c) No Impairment of Rights. The Company will not, by amendment of its Charter or through any other means, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the Warrantholder against impairment.

(d) Additional Documents. The Company agrees to supply such other documents as the Warrantholder may from time to time reasonably request.

(e) Attorneys' Fees. In any litigation, arbitration or court proceeding between the Company and the Warrantholder relating hereto, the prevailing party shall be entitled to reasonable attorneys' fees and expenses and all out-of-pocket costs of proceedings incurred in enforcing this Agreement. For the purposes of this Section 12(e), attorneys' fees shall include without limitation fees incurred in connection with the following: (i) contempt proceedings; (ii) discovery; (iii) any motion, proceeding or other activity of any kind in connection with an insolvency proceeding; (iv) garnishment, levy, and debtor and third party examinations; and (v) post-judgment motions and proceedings of any kind, including without limitation any activity taken to collect or enforce any judgment.

(f) Severability. In the event any one or more of the provisions of this Agreement shall for any reason be held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and the invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable valid, legal and enforceable provision, which comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

(g) Notices. Except as otherwise provided herein, any notice, demand, request, consent, approval, declaration, service of process or other communication that is required, contemplated, or permitted under this Agreement or with respect to the subject matter hereof shall be in writing, and shall be deemed to have been validly served, given, delivered, and received upon the earlier of: (i) personal delivery to the party to be notified, (ii) when sent by confirmed telex, electronic transmission or facsimile if sent during normal business hours of the recipient, if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt, and shall be addressed to the party to be notified as follows:

If to the Warrantholder:

[*insert name of Lender*]
[*insert notice details of Lender*]

With a copy to (which shall not constitute notice):

DLA PIPER LLP (US)
401 B Street, Suite 1700
San Diego, California 92101-4297
Attn: Matt Schwartz, Esq.
Facsimile: 858-638-5134
Telephone: 858-638-6834

If to the Company:

PHATHOM PHARMACEUTICALS, INC.

Attention: General Counsel

100 Campus Drive, Suite 102

Florham Park, NJ 07932

Email: legal@phathompharma.com

Telephone: 877- 742-8466

With a copy to (which shall not constitute notice):

LATHAM & WATKINS LLP
Attn: Cheston Larson and Matthew Bush
12670 High Bluff Drive
San Diego, CA 92130
Facsimile: 858-523-5450
Telephone: 858-523-5400

or to such other address as each party may designate for itself by like notice.

(h) Entire Agreement; Amendments. This Agreement constitutes the entire agreement and understanding of the parties hereto in respect of the subject matter hereof, and supersedes and replaces in their entirety any prior proposals, term sheets, letters, negotiations or other documents or agreements, whether written or oral, with respect to the subject matter hereof. None of the terms of this Agreement may be amended or waived except by an instrument executed by the Company and and holders of Warrants exercisable for a majority of the total number of shares of Common Stock then issuable pursuant to all Warrants then outstanding. Any such amendment or waiver effected in accordance with this Section 12(h) or otherwise effected pursuant to the terms of this Warrant shall be binding upon each holder of Warrants.

(i) Headings. The various headings in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provisions hereof.

(j) Advice of Counsel. Each of the parties represents to each other party hereto that it has discussed (or had an opportunity to discuss) with its counsel this Agreement and, specifically, the provisions of Sections 12(n), 12(o), 12(p), 12(q) and 12(r).

(k) No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

(l) No Waiver. No omission or delay by the Warrantholder at any time to enforce any right or remedy reserved to it, or to require performance of any of the terms, covenants or provisions hereof by the Company at any time designated, shall be a waiver of any such right or remedy to which the Warrantholder is entitled, nor shall it in any way affect the right of the Warrantholder to enforce such provisions thereafter during the term of this Agreement.

(m)Survival. All agreements, representations and warranties contained in this Agreement or in any document delivered pursuant hereto shall be for the benefit of the Warrantholder and shall survive the execution and delivery of this Agreement and the expiration or other termination of this Agreement.

(n) Governing Law. This Agreement has been negotiated and delivered to the Warrantholder in the State of California, and shall be deemed to have been accepted by the Warrantholder in the State of California. Delivery of Common Stock to the Warrantholder by the Company under this Agreement is due in the State of California. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding conflict of laws principles that would cause the application of laws of any other jurisdiction.

(o) Consent to Jurisdiction and Venue. All judicial proceedings arising in or under or related to this Agreement may be brought in any state or federal court of competent jurisdiction located in the State of California. By execution and delivery of this Agreement, each party hereto generally and unconditionally: (i) consents to personal jurisdiction in Santa Clara County, State of California; (ii)

waives any objection as to jurisdiction or venue in Santa Clara County, State of California; (iii) agrees not to assert any defense based on lack of jurisdiction or venue in the aforesaid courts; and (iv) irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. Service of process on any party hereto in any action arising out of or relating to this Agreement shall be effective if given in accordance with the requirements for notice set forth in Section 12(g), and shall be deemed effective and received as set forth in Section 12(g). Nothing herein shall affect the right to serve process in any other manner permitted by law or shall limit the right of either party to bring proceedings in the courts of any other jurisdiction.

(p) Mutual Waiver of Jury Trial. Because disputes arising in connection with complex financial transactions are most quickly and economically resolved by an experienced and expert person and the parties wish applicable state and federal laws to apply (rather than arbitration rules), the parties desire that their disputes arising under or in connection with this Warrant be resolved by a judge applying such applicable laws. EACH OF THE COMPANY AND THE WARRANTHOLDER SPECIFICALLY WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, CROSS-CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR ANY OTHER CLAIM (COLLECTIVELY, "CLAIMS") ASSERTED BY THE COMPANY AGAINST THE WARRANTHOLDER OR ITS ASSIGNEE OR BY THE WARRANTHOLDER OR ITS ASSIGNEE AGAINST THE COMPANY RELATING TO THIS WARRANT. This waiver extends to all such Claims, including Claims that involve persons or entities other the Company and the Warrantholder; Claims that arise out of or are in any way connected to the relationship between the Company and the Warrantholder; and any Claims for damages, breach of contract, specific performance, or any equitable or legal relief of any kind, arising out of this Agreement.

(q) Arbitration. If the Mutual Waiver of Jury Trial set forth in Section 12(p) is ineffective or unenforceable, the parties agree that all Claims shall be submitted to binding arbitration in accordance with the commercial arbitration rules of JAMS (the "Rules"), such arbitration to occur before one arbitrator, which arbitrator shall be a retired California state judge or a retired Federal court judge. Such proceeding shall be conducted in Santa Clara County, State of California, with California rules of evidence and discovery applicable to such arbitration. The decision of the arbitrator shall be binding on the parties, and shall be final and nonappealable to the maximum extent permitted by law. Any judgment rendered by the arbitrator may be entered in a court of competent jurisdiction and enforced by the prevailing party as a final judgment of such court.

(r) Pre-arbitration Relief. In the event Claims are to be resolved by arbitration, either party may seek from a court of competent jurisdiction identified in Section 12(o), any prejudgment order, writ or other relief and have such prejudgment order, writ or other relief enforced to the fullest extent permitted by law notwithstanding that all Claims are otherwise subject to resolution by binding arbitration.

(s) Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in any number of counterparts (including by facsimile or electronic delivery (PDF), and by different parties hereto in separate counterparts, each of which when so delivered shall be deemed an original, but all of which counterparts shall constitute but one and the same instrument.

(t) Specific Performance. The parties hereto hereby declare that it is impossible to measure in money the damages which will accrue to the Warrantholder by reason of the Company's failure to perform any of the obligations under this Agreement and agree that the terms of this Agreement shall be specifically enforceable by the Warrantholder. If the Warrantholder institutes any action or proceeding to specifically enforce the provisions hereof, any person against whom such action or proceeding is brought hereby waives the claim or defense therein that the Warrantholder has an adequate remedy at law, and such person shall not offer in any such action or proceeding the claim or defense that such remedy at law exists.

(u) Lost, Stolen, Mutilated or Destroyed Warrant. If this Warrant is lost, stolen, mutilated or destroyed, the Company may, on such terms as to indemnity or otherwise as it may reasonably impose (which shall, in the case of a mutilated Warrant, include the surrender thereof), issue a new Warrant of like denomination and tenor as this Warrant so lost, stolen, mutilated or destroyed. Any such new Warrant shall constitute an original contractual obligation of the Company, whether or not the allegedly lost, stolen, mutilated or destroyed Warrant shall be at any time enforceable by anyone.

(v) Legends. To the extent required by applicable laws, this Warrant and the shares of Common Stock issuable hereunder (and the securities issuable, directly or indirectly, upon conversion of such shares of Common Stock, if any) may be imprinted with a restricted securities legend in substantially the following form:

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY APPLICABLE STATE SECURITIES LAWS, AND MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION RELATED THERETO OR, SUBJECT TO SECTION 11 OF THE WARRANT AGREEMENT DATED [•], 202[•], BETWEEN THE COMPANY AND [*INSERT LEGAL NAME OF LENDER*], AN OPINION OF COUNSEL (WHICH MAY BE COMPANY COUNSEL) REASONABLY SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE ACTOR ANY STATE SECURITIES LAWS.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Agreement to be executed by its officers thereunto duly authorized as of the Effective Date.

COMPANY:

PHATHOM PHARMACEUTICALS, INC.

By: _____
Name: _____
Title: _____

WARRANTHOLDER:

[*insert signature block*]

EXHIBIT I

NOTICE OF EXERCISE

To: Phathom Pharmaceuticals, Inc.

(1) The undersigned Warrantholder hereby elects to purchase [_____] shares of the Common Stock of Phathom Pharmaceuticals, Inc., pursuant to the terms of the Warrant Agreement dated [•], 202[•] (the "Warrant Agreement") between Phathom Pharmaceuticals, Inc. and the Warrantholder, and [CASH PAYMENT: tenders herewith payment of the Purchase Price in full, together with all applicable transfer taxes, if any.] [NET ISSUANCE: elects pursuant to Section 3(a) of the Warrant Agreement to effect a Net Issuance.]

(2) Please issue a certificate or certificates or book-entry credit(s) representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below.

_____
(Name)

_____
(Address)

WARRANTHOLDER: [*LENDER*]

By: _____
Name: _____
Title: _____

EXHIBIT II

1. ACKNOWLEDGMENT OF EXERCISE

The undersigned, Phathom Pharmaceuticals, Inc., hereby acknowledges receipt of the "Notice of Exercise" from [•] to purchase [____] shares of the Common Stock of Phathom Pharmaceuticals, Inc. pursuant to the terms of the Warrant Agreement by and between Phathom Pharmaceuticals, Inc. and [*Lender*] dated the [•] day of [•], 202[•] (the "Warrant Agreement"), and further acknowledges that [_____] shares remain subject to purchase under the terms of the Warrant Agreement.

COMPANY: PHATHOM PHARMACEUTICALS, INC.

By: _____

Title: _____

Date: _____

EXHIBIT III

TRANSFER NOTICE

(To transfer or assign the foregoing Agreement execute this form and supply required information. Do not use this form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Agreement and all rights evidenced thereby are hereby transferred and assigned to

_____
(Please Print)

whose address is_____

_____

Dated: _____

Holder's Signature: _____

Holder's Address: _____

_____

Signature Guaranteed: _____

NOTE: The signature to this Transfer Notice must correspond with the name as it appears on the face of the Agreement, without alteration or enlargement or any change whatever. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Agreement.

Exhibit 10.1

THIRD AMENDMENT TO LOAN AND SECURITY AGREEMENT

THIS THIRD AMENDMENT TO LOAN AND SECURITY AGREEMENT (this "Amendment"), dated as of May 9, 2023, is entered into by and among PHATHOM PHARMACEUTICALS, INC., a Delaware corporation ("Phathom"), each of its Subsidiaries from time to time party to the Loan Agreement (as defined below) as borrower (together with Phathom, individually or collectively, as the context may require, "Borrower"), the several banks and other financial institutions or entities parties to this Amendment (collectively, referred to as the "Required Lenders"), and HERCULES CAPITAL, INC., a Maryland corporation, in its capacity as administrative agent and collateral agent for itself and the Lenders (as defined in the Loan Agreement) (together with its successors and assigns, in such capacity, the "Agent").

A. Borrower, Lenders and the Agent are parties to that certain Loan and Security Agreement, dated as of September 17, 2021 (as amended by that certain Consent and First Amendment to Loan and Security Agreement dated as of May 3, 2022, as further amended by that certain Second Amendment to Loan and Security Agreement dated as of September 26, 2022, and as further amended, restated, supplemented or otherwise modified from time to time prior to the date of this Amendment, the "Loan Agreement"). The Lenders have extended credit to Borrower for the purposes permitted in the Loan Agreement.

B. Borrower has requested that Agent and the Required Lenders amend the Loan Agreement to (i) adjust the availability of Tranche II and Tranche III and the Term Loan Advances pursuant to Section 2.1(a)(ii) and Section 2.1(a)(iii) of the Loan Agreement, (ii) adjust the parameters of the performance covenant set forth in Section 7.20(b) of the Loan Agreement, and (iii) make certain other revisions to the Loan Agreement as more fully set forth herein. Agent and Required Lenders have agreed to so amend certain provisions of the Loan Agreement, but only to the extent, in accordance with the terms, subject to the conditions and in reliance upon the representations and warranties set forth below.

SECTION 1Definitions; Interpretation.

(a) **Terms Defined in Loan Agreement**. All capitalized terms used in this Amendment (including in the recitals hereof) and not otherwise defined herein shall have the meanings assigned to them in the Loan Agreement (as amended by this Amendment). For the purposes of this Amendment:

(i) "**Tranche II Term Commitment**" means as to any Lender, the obligation of such Lender, if any, to make a Term Loan Advance to Borrower in a principal amount not to exceed the amount set forth under the heading "Tranche II Commitment" opposite such Lender's name on Schedule 1.1(a).

(ii) "**Tranche III Term Commitment**" means as to any Lender, the obligation of such Lender, if any, to make a Term Loan Advance to Borrower in a principal amount not to exceed the amount set forth under the heading "Tranche III Commitment" opposite such Lender's name on Schedule 1.1(a).

(b) **Rules of Construction**. The rules of construction in Section 1.2 of the Loan Agreement shall be applicable to this Amendment and are incorporated herein by this reference.

SECTION 2Amendments to the Loan Agreement.

(a) Upon the occurrence of the Third Amendment Effective Date, the Loan Agreement is hereby amended as follows:

(i) New Definition. The following definitions are added to Section 1.1 of the Loan Agreement in their proper alphabetical order:

""Availability Trigger" means the earliest to occur of (a) October 1, 2023, (b) the date on which the EE Milestone is achieved, and (c) any earlier date specified in writing as the "Availability Trigger" by the Agent, acting at the direction of the Required Lenders, in turn, solely with respect to this clause (c), acting pursuant to a determination by the Agent's investment committee in such committee's sole and unfettered discretion.

"Third Amendment" means that certain Third Amendment to Loan and Security Agreement, dated as of May 9, 2023, by and among the Borrower, Agent and the Lenders party thereto.

"Third Amendment Effective Date" has the meaning given to such term in the Third Amendment.

"Tranche II" means the advances pursuant to Section 2.1(a)(ii)."

(ii) Amended and Restated Definitions. The following definitions appearing in Section 1.1 of the Loan Agreement are hereby amended in their entirety and replaced with the following:

""Performance Covenant B" means that Borrower at all times maintains Qualified Cash in an amount greater than or equal to (x) the outstanding principal amount of the Term Loan Advances, multiplied by (y) (i) at all times prior to the Approval Milestone II Date, 65% and (ii) at all times on and after the Approval Milestone II Date, 45%.

"Performance Covenant C" means Borrower's achievement of T3M Net Product Revenue equal to or greater than the least of (i) 50% of the amount set forth for the applicable month in the Performance Covenant C Schedule, (ii) (x) the outstanding principal amount of the Term Loan Advances divided by (y) 2.75, and (iii) $65,000,000, tested monthly.

"Performance Covenant C Schedule" means that certain Performance Covenant C Schedule delivered by Borrower to the Agent, and approved by the Agent, after the Closing Date but prior to the Third Amendment Effective Date.

"Performance Test Period" means each of (a) the period commencing on November 15, 2023 and ending on the earlier of (i) so long as the Borrower satisfies the EE Milestone prior to February 15, 2024, the date on which the Borrower satisfies the EE Milestone, and (ii) otherwise, the Term Loan Maturity Date, and (b) if the Borrower satisfies the EE Milestone prior to February 15, 2024, the period commencing on May 15, 2024 and ending on the Term Loan Maturity Date; provided, for the purposes of clauses (a) and (b) above, the Performance Test Period shall not take effect at any time until the outstanding principal amount of the Term Loan Advances is greater than $100,000,000.

"Term Commitment" means as to any Lender, the obligation of such Lender, if any, to make a Term Loan Advance to Borrower in a principal amount not to exceed the amount set forth under the heading "Total Commitment" opposite such Lender's name on Schedule 1.1(a)."

(iii) Tranche II Commitment. Section 2.1(a)(ii) of the Loan Agreement is hereby amended in its entirety and replaced with the following:

"(ii) *Tranche II*. Subject to the terms and conditions of this Agreement, beginning on the occurrence of the Availability Trigger and continuing through December 15, 2023, Borrower may request, and Lenders shall severally (and not jointly) make, one or more additional Term Loan Advances in minimum increments of $25,000,000 (or if less than $25,000,000 the remaining amount of Term Loan Advances available to be drawn pursuant to this Section 2.1(a)(ii)) in an aggregate principal amount up to $50,000,000."

(iv) Tranche III Commitment. Section 2.1(a)(iii) of the Loan Agreement is hereby amended in its entirety and replaced with the following:

"(iii) *Tranche III*. Subject to the terms and conditions of this Agreement, beginning on the occurrence of the Availability Trigger and continuing through December 15, 2023, Borrower may request, and Lenders shall severally (and not jointly) make, a single Term Loan Advance in a principal amount of $25,000,000."

(v) Further Conditions Precedent. Section 4.2 of the Loan Agreement is hereby amended in its entirety and replaced with the following:

"4.2 All Advances. On each Advance Date:

(a) Agent shall have received (i) an Advance Request for the relevant Advance as required by Section 2.1(b), duly executed by Borrower's Chief Executive Officer, Chief Financial Officer or Chief Accounting Officer, and (ii) any other documents Agent may reasonably request in its good faith business discretion.

(b) The representations and warranties set forth in this Agreement shall be true and correct in all material respects on and as of the applicable Advance Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date.

(c) Borrower shall be in compliance with all the terms and provisions set forth herein and in each other Loan Document on its part to be observed or performed, and at the time of and immediately after such Advance no Event of Default shall have occurred and be continuing.

(d) With respect to any Advance pursuant to Tranche III, Borrower shall have paid the Tranche III Facility Charge.

(e) With respect to any Advance pursuant to Tranche IV, Borrower shall have paid the Tranche IV Facility Charge.

(f) Each Lender shall have received, in form and substance reasonably satisfactory to Agent, Borrower's duly executed original signatures to a Warrant substantially in the form set out in Exhibit I.

Each Advance Request shall be deemed to constitute a representation and warranty by Borrower on the relevant Advance Date as to the matters specified in subsections (b) and (c) of this Section 4.2 and as to the matters set forth in the Advance Request."

(vi) Performance Covenant. Section 7.20(b)(i) of the Loan Agreement is hereby amended in its entirety and replaced with the following:

"(i) During all times a Performance Test Period is in effect, Borrower shall satisfy either of (i) Performance Covenant A or Performance Covenant B, tested at all times, or (ii) Performance Covenant C, tested monthly."

(vii) Exhibit A to the Loan Agreement is hereby replaced with Exhibit A attached hereto.

(viii) Exhibit E to the Loan Agreement is hereby replaced with Exhibit E attached hereto.

(ix) Exhibit I attached hereto is hereby added as Exhibit I of the Loan Agreement.

(b) **References Within Loan Agreement**. Each reference in the Loan Agreement to "this Agreement" and the words "hereof," "herein," "hereunder", or words of like import, shall mean and be a reference to the Loan Agreement as amended by this Amendment. This Amendment shall be a Loan Document.

SECTION 3Tranche Extension Amendment Fee. Borrower will pay to Agent, for the account of the Lenders (to be made *pro rata* according to the aggregate of the Tranche II Term Commitment and the Tranche III Term Commitment of the relevant Lenders), an amendment fee (the "Tranche Extension Amendment Fee") equal to One Hundred Fifty Thousand Dollars ($150,000). The Tranche Extension Amendment Fee shall be fully earned, due and payable on the date hereof.

SECTION 4Covenant Extension Amendment Fee. Borrower will pay to Agent, for the account of the Lenders (in accordance with Section 2.6 of the Loan Agreement), an amendment fee (the "Covenant Extension Amendment Fee") equal to One Hundred Thousand Dollars ($100,000). The Covenant Extension Amendment Fee shall be fully earned, due and payable on the date hereof.

SECTION 5Conditions of Effectiveness. The effectiveness of this Amendment (the "Third Amendment Effective Date") shall be subject to Agent's receipt of the following documents, in form and substance satisfactory to Agent, or, as applicable, the following conditions being met:

(a) this Amendment, executed by Agent, each Required Lender and Borrower;

(b) the First Amendment to Warrant, executed by each Lender and Phathom;

(c) Borrower shall have paid (i) the Tranche Extension Amendment Fee, (ii) Covenant Extension Amendment Fee, (iii) all invoiced costs and expenses then due in accordance with Section 8(d), and (iv) all other fees, costs and expenses, if any, due and payable as of the date hereof under the Loan Agreement;

(d) a good standing certificate of Borrower, certified by the Secretary of State of Delaware, dated as of a date no earlier than 30 days prior to the date hereof;

(e) certified copies, dated as of a recent date, of financing statement and other lien searches of Borrower, as Agent may request and which shall be obtained by Agent, accompanied by written evidence (including any UCC termination statements) that the Liens revealed in any such searches either (i) will be terminated prior to or in connection with the execution of this Amendment, or (ii) in the sole discretion of Agent, will constitute Permitted Liens;

(f) on the Third Amendment Effective Date, immediately after giving effect to the amendment of the Loan Agreement contemplated hereby:

(i) the representations and warranties contained in Section 6 shall be true and correct on and as of the Third Amendment Effective Date as though made on and as of such date; and

(ii) there exist no Events of Default or events that with the passage of time would result in an Event of Default; and

(g) such other documents or evidence as Agent may reasonably request to effectuate the terms of this Amendment.

SECTION 6Representations and Warranties. To induce Agent and Required Lenders to enter into this Amendment, Borrower hereby confirms, as of the date hereof, (a) that the representations and warranties made by it in Section 5 of the Loan Agreement and in the other Loan Documents are true and correct in all material respects; *provided*, *however*, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; *provided, further,* that to the extent such representations and warranties by their terms expressly relate only to a prior date such representations and warranties shall be true and correct as of such prior date, and (a) that no Event of Default has occurred and is continuing; (b) that there has not been and there does not exist a Material Adverse Effect; (c) Lenders have and shall continue to have valid, enforceable and perfected first-priority liens, subject only to Permitted Liens, on and security interests in the Collateral and all other collateral heretofore granted by Borrower to Lenders, pursuant to the Loan Documents or otherwise granted to or held by Lenders; (d) the agreements and obligations of Borrower contained in the Loan Documents and in this Amendment constitute the legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except as the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws of general application affecting the enforcement of creditors' rights or by the application of general principles of equity; and (e) the execution, delivery and performance of this Amendment by Borrower will not violate any law, rule, regulation, order, contractual obligation or organizational document of Borrower and will not result in, or require, the creation or imposition of any lien, claim or encumbrance of any kind on any of its properties or revenues. For the purposes of this Section 6, each reference in Section 5 of the Loan Agreement to "this Agreement," and the words "hereof", "herein", "hereunder", or words of like import in such Section, shall mean and be a reference to the Loan Agreement as amended by this Amendment.

SECTION 7Release. In consideration of the agreements of Agent and each Required Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower, on behalf of itself and its successors, assigns, and other legal representatives, hereby to the extent possible under applicable law fully, absolutely, unconditionally and irrevocably releases, remises and forever discharges Agent and each Required Lender, and its successors and assigns, and its present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (Agent, Required Lenders and all such other persons being hereinafter referred to collectively as the "**Releasees**" and individually as a "**Releasee**"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which Borrower, or any of its successors, assigns, or other legal representatives may now or hereafter own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Amendment, for or on account of, or in relation to, or in any way in connection with the Loan Agreement, or any of the other Loan Documents or transactions thereunder

or related thereto. Borrower understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release. Borrower agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered shall affect in any manner the final, absolute and unconditional nature of the release set forth above.

SECTION 8Miscellaneous.

(a) **Loan Documents Otherwise Not Affected; Reaffirmation; No Novation**.

(i) Except as expressly amended pursuant hereto or referenced herein, the Loan Agreement and the other Loan Documents shall remain unchanged and in full force and effect and are hereby ratified and confirmed in all respects. The Required Lenders' and Agent's execution and delivery of, or acceptance of, this Amendment shall not be deemed to create a course of dealing or otherwise create any express or implied duty by any of them to provide any other or further amendments, consents or waivers in the future.

(ii) Borrower hereby expressly (1) reaffirms, ratifies and confirms its Secured Obligations under the Loan Agreement and the other Loan Documents, (2) reaffirms, ratifies and confirms the grant of security under Section 3 of the Loan Agreement, (3) reaffirms that such grant of security in the Collateral secures all Secured Obligations under the Loan Agreement, including without limitation any Term Loan Advances funded on or after the Third Amendment Effective Date, as of the date hereof, and with effect from (and including) the Third Amendment Effective Date, such grant of security in the Collateral: (x) remains in full force and effect notwithstanding the amendments expressly referenced herein; and (y) secures all Secured Obligations under the Loan Agreement, as amended by this Amendment, and the other Loan Documents, (4) agrees that this Amendment shall be a "Loan Document" under the Loan Agreement, and (5) agrees that the Loan Agreement and each other Loan Document shall remain in full force and effect following any action contemplated in connection herewith.

(iii) This Amendment is not a novation and the terms and conditions of this Amendment shall be in addition to and supplemental to all terms and conditions set forth in the Loan Documents. Nothing in this Amendment is intended, or shall be construed, to constitute an accord and satisfaction of Borrower's Secured Obligations under or in connection with the Loan Agreement and any other Loan Document or to modify, affect or impair the perfection or continuity of Agent's security interest in, (on behalf of itself and the Lenders) security titles to or other liens on any Collateral for the Secured Obligations.

(b) **Conditions**. For purposes of determining compliance with the conditions specified in Section 5, each Required Lender that has signed this Amendment shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Required Lenders unless Agent shall have received notice from such Required Lender prior to the date hereof specifying its objection thereto.

(c) **No Reliance**. Borrower hereby acknowledges and confirms to Agent and Required Lenders that Borrower is executing this Amendment on the basis of its own investigation and for its own reasons without reliance upon any agreement, representation, understanding or communication by or on behalf of any other Person.

(d) **Costs and Expenses**. Borrower agrees to pay to Agent on the date hereof the out-of-pocket costs and expenses of Agent and each Lender party hereto, and the documented out-of-pocket fees and disbursements of counsel to Agent and each Lender party hereto in connection with the negotiation,

preparation, execution and delivery of this Amendment and any other documents to be delivered in connection herewith on the date hereof.

(e) **Binding Effect**. This Amendment binds and is for the benefit of the successors and permitted assigns of each party.

(f) **Governing Law.** THIS AMENDMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA, EXCLUDING CONFLICT OF LAWS PRINCIPLES THAT WOULD CAUSE THE APPLICATION OF LAWS OF ANY OTHER JURISDICTION.

(g) **Complete Agreement; Amendments**. This Amendment and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements with respect to such subject matter. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Amendment and the Loan Documents merge into this Amendment and the Loan Documents.

(h) **Severability of Provisions.** Each provision of this Amendment is severable from every other provision in determining the enforceability of any provision.

(i) **Counterparts**. This Amendment may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Amendment. Delivery of an executed counterpart of a signature page of this Amendment by facsimile, portable document format (.pdf) or other electronic transmission will be as effective as delivery of a manually executed counterpart hereof.

(j) **Electronic Execution of Certain Other Documents**. The words “execution,” “execute”, “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Amendment and the transactions contemplated hereby (including without limitation assignments, assumptions, amendments, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the California Uniform Electronic Transactions Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment, as of the date first above written.

BORROWER:

PHATHOM PHARMACEUTICALS, INC.

Signature: /s/ Molly Henderson

Print Name: Molly Henderson

Title: Chief Financial Officer

[SIGNATURES CONTINUE ON THE NEXT PAGE]

AGENT:
HERCULES CAPITAL, INC.

Signature: /s/ Seth Meyer

Print Name: Seth Meyer

Title: Chief Financial Officer

REQUIRED LENDERS:

HERCULES CAPITAL, INC.

Signature: /s/ Seth Meyer

Print Name: Seth Meyer

Title: Chief Financial Officer

HERCULES CAPITAL IV, L.P.

By: Hercules Technology SBIC Management, LLC, its General Partner

By: Hercules Capital, Inc., its Manager

Signature: /s/ Seth Meyer

Print Name: Seth Meyer

Title: Chief Financial Officer

HERCULES PRIVATE CREDIT FUND 1 L.P.

By: Hercules Adviser LLC, its Investment Adviser

By: /s/ Seth Meyer
Name: Seth Meyer
Title: Authorized Signatory

HERCULES PRIVATE GLOBAL VENTURE GROWTH FUND I L.P.

By: Hercules Private Global Venture Growth Fund GP I LLC, its general partner

By: Hercules Adviser LLC, its sole member

Signature: /s/ Seth Meyer

Print Name: Seth Meyer

Title: Chief Financial Officer

Exhibit 10.1

Table of Addenda, Exhibits and Schedules

Exhibit A: Advance Request

Exhibit E: Compliance Certificate

Exhibit I: Form of Warrant

Exhibit 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Terrie Curran, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Phathom Pharmaceuticals, Inc.

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

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

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

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

   b) (Paragraph omitted pursuant to SEC Release Nos. 33-8238/34-47986 and 33-8392/34-49313);

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

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

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

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

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

Date: May 10, 2023

/s/ Terrie Curran

Terrie Curran
Chief Executive Officer and President
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Molly Henderson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Phathom Pharmaceuticals, Inc.

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

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

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

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

   b) (Paragraph omitted pursuant to SEC Release Nos. 33-8238/34-47986 and 33-8392/34-49313);

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

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

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

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

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

Date: May 10, 2023

/s/ Molly Henderson

Molly Henderson
Chief Financial and Business Officer
(Principal Financial and Accounting Officer)

Exhibit 32.1

CERTIFICATION PURSUANT TO

18 U.S.C. SECTION 1350

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Phathom Pharmaceuticals, Inc. (the "Company") for the quarter ended March 31, 2023 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Terrie Curran, as Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to my knowledge, that:

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

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

Date: May 10, 2023

/s/ Terrie Curran
Terrie Curran
Chief Executive Officer and President
(Principal Executive Officer)

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.

Exhibit 32.2

CERTIFICATION PURSUANT TO

18 U.S.C. SECTION 1350

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Phathom Pharmaceuticals, Inc. (the "Company") for the quarter ended March 31, 2023 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Molly Henderson, as Chief Financial and Business Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to my knowledge, that:

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

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

Date: May 10, 2023

/s/ Molly Henderson
Molly Henderson
Chief Financial and Business Officer
(Principal Financial and Accounting Officer)

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.