

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

FORM 10-K/A
(Amendment No.1)

(Mark One)

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

For the fiscal year ended December 31, 2016

OR

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

Commission file number 000-24477

DIFFUSION PHARMACEUTICALS INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

2020 Avon Court, #4

Charlottesville, Virginia

(Address of principal executive offices)

30-0645032

(I.R.S. Employer Identification No.)

22902

(Zip Code)

(434) 220-0718

(Registrant's telephone number, including area code)

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

None

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

Common Stock, par value \$0.001 per share

(Title of each class)

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

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

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted 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 and post such files). YES NO

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

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 registrant is a shell company (as defined in Rule 12b-2 of the Act). YES NO

The aggregate market value of the registrant's common stock, excluding shares beneficially owned by affiliates, computed by reference to the closing sale price at which the common stock was last sold as of June 30, 2016 (the last business day of the registrant's second fiscal quarter) as quoted by OTCQX on that date was approximately \$72.7 million.

As of March 15, 2017, 10,345,637 shares of common stock of the registrant were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

None.

EXPLANATORY NOTES

Amendment No.1

This Amendment No. 1 to Form 10-K (this "Amendment No. 1") amends the Annual Report on Form 10-K of Diffusion Pharmaceuticals Inc., a Delaware corporation (the "Company") for the year ended December 31, 2016, filed with the Securities and Exchange Commission (the "SEC") on March 31, 2017 (the "Original Filing"). This Amendment No. 1 is being filed to provide the information required by Items 10 through 14 of Part III. This information was previously omitted from the Original Filing in reliance on General Instruction G(3) to Form 10-K, which permits the information in the above-referenced items to be incorporated in the Form 10-K by reference from a definitive proxy statement involving the election of directors if such statement is filed no later than 120 days after our fiscal year end. We are filing this Amendment No.1 to include Part III information in our Form 10-K because we will not file our definitive proxy statement containing this information before that date.

In addition, pursuant to the rules and regulations promulgated by the SEC, we have also included as exhibits currently dated certifications of our principal executive officer and principal financial officer as required under Section 302 of the Sarbanes-Oxley Act of 2002.

Except as described above, no other changes have been made to the Original Filing. Except as otherwise explicitly stated herein, this Amendment No. 1 continues to speak as of the date of the Original Filing, and we have not updated the disclosures contained therein to reflect any events that occurred subsequent to the date of the Original Filing. The filing of this Amendment No. 1 is not a representation that any statements contained in items of our Original Filing other than Items 10 through 14 of Part III, and Part IV are true or complete as of any date subsequent to the Original Filing. This Amendment No. 1 should be read in conjunction with our other filings made with the SEC subsequent to the date of the Original Filing, including any amendments to those filings, as well as our Current Reports filed on Form 8-K subsequent to the date of the Original Filing.

Merger with Diffusion Pharmaceuticals LLC

As previously disclosed, on January 8, 2016, the Company (f/k/a RestorGenex Corporation) completed the merger (the "Merger") of its wholly owned subsidiary, Arco Merger Sub, LLC ("Merger Sub"), with and into Diffusion Pharmaceuticals LLC, a Virginia limited liability company ("Diffusion LLC"), in accordance with the terms of the Agreement and Plan of Merger, dated as of December 15, 2015, among the Company, Merger Sub and Diffusion LLC (the "Merger Agreement"). As a result of the Merger, Diffusion LLC, the surviving company in the Merger, became a wholly owned subsidiary of the Company and, following the Merger, the Company changed its corporate name from RestorGenex Corporation ("RestorGenex") to Diffusion Pharmaceuticals Inc.

For accounting purposes, the Merger is treated as a "reverse acquisition" under generally acceptable accounting practices in the United States ("U.S. GAAP") and Diffusion LLC is considered the accounting acquirer. Accordingly, Diffusion LLC's historical results of operations will replace the Company's historical results of operations for all periods prior to the Merger.

Unless the context otherwise requires, references to "Diffusion," the "Company," "we," "our" or "us" in this report refer to Diffusion Pharmaceuticals Inc. and its subsidiaries, following the completion of the Merger and Diffusion Pharmaceuticals LLC prior to the completion of the Merger, references to "RestorGenex" refer to the Company prior to the completion of the Merger and references to "Diffusion LLC" refer to Diffusion Pharmaceuticals LLC.

Except as otherwise noted, references to "common stock" in this report refer to common stock, par value \$0.001 per share, of the Company.

This report contains the following trademarks, trade names and service marks of ours: RestorGenex and Diffusion. All other trade names, trademarks and service marks appearing in this Amendment No. 1 are the property of their respective owners. We have assumed that the reader understands that all such terms are source-indicating. Accordingly, such terms appear without the trade name, trademark or service mark notice for convenience only and should not be construed as being used in a descriptive or generic sense.

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PART III

Item 10. *Directors, Executive Officers and Corporate Governance*

Directors

The table below sets forth, as of April 17, 2017, certain information that has been furnished to us by each current director on the Company’s board of directors (the “Board”)

<u>Name</u>	<u>Age</u>	<u>Director Since</u>
David G. Kalergis	68	2016
Isaac Blech	67	2016
John L. Gainer, Ph.D.	78	2016
Robert Adams (1)	67	2016
Mark T. Giles (1)	62	2016
Alan Levin (1)	55	2016

(1) Current member of the Audit, Compensation and Nominating and Corporate Governance Committees.

The paragraphs below provide information about each current director, including all positions he holds, his principal occupation and business experience for the past five years, and the names of other publicly held companies of which he currently serves as a director or served as a director during the past five years. We believe that all of our director nominees display personal and professional integrity; satisfactory levels of education and/or business experience; broad-based business acumen; an appropriate level of understanding of our business and its industry and other industries relevant to our business; the ability and willingness to devote adequate time to the work of the Board and its committees; a fit of skills and personality with those of our other directors that helps build a board of directors that is effective, collegial and responsive to the needs of our company; strategic thinking and a willingness to share ideas; a diversity of experiences, expertise and background; and the ability to represent the interests of all of our stockholders. The information presented below regarding each director also sets forth specific experience, qualifications, attributes and skills that led the Board to the conclusion that he or she should serve as a director in light of our business and structure.

David G. Kalergis – Mr. Kalergis has served as our Chairman of the Board and Chief Executive Officer since the completion of the Merger. Mr. Kalergis, along with Dr. Gainer, is the Company’s co-founder and has served as a director of Diffusion LLC since its inception in 2001 and as its Chief Executive Officer since 2004. Prior to joining the Diffusion LLC, Mr. Kalergis held positions with the University of Virginia, as the general counsel and director of business development for Pharmaceutical Research Associates, Inc., a pharmaceutical contract research organization, as an intelligence analyst for the U.S. Government and with the law firm Dewey, Ballantine, Bushby, Palmer & Wood, practicing in the areas of corporate finance, public offerings and mergers and acquisitions. In addition, from July 1998 until May 2012, Mr. Kalergis served on the board of directors and audit committee of Virginia National Bank. Mr. Kalergis received a B.A. in psychology, as well as an M.B.A. and J.D., from the University of Virginia, and is a graduate of the Harvard Business School’s Leadership and Strategy in the Pharmaceutical and Biotechnology Industry program.

The Board believes Mr. Kalergis’ perspective and experience as the Chief Executive Officer and a director of Diffusion, as well as his depth of operating and senior management experience in our industry and educational background, provide him with the qualifications to serve as a director.

Isaac Blech – Mr. Blech has served as a director since August 2016. Mr. Blech is a biotechnology entrepreneur and investor. Mr. Blech’s current roles include serving as vice chairman of the board of directors of Edge Therapeutics, Inc., a clinical-stage biotechnology company, founder and director of Cerecor, Inc., a CNS company, director of ContraFect Corporation, an infectious disease company, director of Aevi Genomic Medicine (previously Medgenics, Inc.), a biotechnology company, and vice chairman of InspireMD, a stent company. He is vice chairman of the boards of directors of Centrexion Corporation, a private company which is developing new modalities of pain control, Regenovation, Inc., a private company developing new ways to regenerate human tissue, X4 Pharmaceuticals, a private cancer immunology company, Sapience Therapeutics, a private oncology company, Aridis Pharmaceuticals, a private company with a product to treat pneumonia, WaveGuide Corporation, a private company developing the world’s smallest NMR machine, Alveo, a private company developing a hand held diagnostic device to replace PC, X-VAX Technology, Inc., a private vaccine company whose initial product is a preventative vaccine for Herpes 1 and Herpes 2, SpendSmart Networks, Inc., a private electronic rewards company, and root9B Technologies, a private cyber security company. Mr. Blech earned a B.A. degree from Baruch College in 1975. Mr. Blech was previously a member of the board of directors of the Company prior to the Merger.

The Board believes Mr. Blech’s broad and substantial experience as a founder, director and major investor in numerous biotechnology companies, provide him with the qualifications to serve as a director.

John L. Gainer, Ph.D. – Dr. Gainer has served as a director and as our Chief Scientific Officer since the completion of the Merger in January 2016. Dr. Gainer, along with Mr. Kalergis, is the Company’s co-founder and has served as one of Diffusions LLC’s directors and as its Chief Scientific Officer since its inception in 2001. From 1966 until his retirement in 2005, Dr. Gainer was a professor of chemical engineering at the University of Virginia. During his career, Dr. Gainer authored more than 100 scientific journal articles, including more than 30 published in medical journals, and spent two sabbaticals investigating drug actions and related research at Karolinska Institute in Stockholm and the laboratory of a major pharmaceutical company. He has been a member of the International Society for Oxygen Transport in Tissues since its inception in 1973. Dr. Gainer received a BSChE from West Virginia University, a MS in chemical engineering from the Massachusetts Institute of Technology, and a Ph.D. in chemical engineering from the University of Delaware.

The Board believes Dr. Gainer’s perspective and experience as a director and officer of Diffusion, as well as the depth and breadth of his scientific knowledge, provide him with the qualifications to serve as a director.

Robert Adams – Mr. Adams has served as a director since the completion of the Merger in January 2016 and as a director of Diffusion LLC since 2002. Prior to his retirement in 2015, Mr. Adams was a partner in the intellectual property law firm of Nixon & Vanderhye P.C, where he had practiced for over 25 years, focusing on patent litigation and international patent licensing and negotiations. During that time period, Mr. Adams was lead litigation counsel in more than 50 major intellectual property lawsuits, where he directly handled, for example, all intellectual property valuations and settlements on behalf of his U.S. and foreign clients. Moreover, Mr. Adams served as the head negotiator for a well-known Japanese consumer products company for 15 years in various complicated licensing situations. Those negotiations typically involved the cross-licensing of up to hundreds of U.S. and foreign patent rights. His lead licensing activities on behalf of that client included, among other things, multi-year negotiations with Texas Instruments, Advanced Micro Devices and Freescale. Mr. Adams received a B.A. from the University of Maryland and a J.D. from George Washington University (with honors), and is a member of the Virginia State Bar.

The Board believes Mr. Adams’ perspective and experience as a director of Diffusion, as well as the depth and breadth of his intellectual property experience, provide him with the qualifications to serve as a director.

Mark T. Giles – Mr. Giles has served as a director since the completion of the Merger in January 2016 and as a director of Diffusion LLC since 2008. Since July 2007, Mr. Giles has been the sole managing member of Panda Holdings, LLC, which engages in the investment and management of private capital. Prior to joining Panda Holdings, Mr. Giles served as the Chief Executive Officer of Virginia National Bank from July 1998 until June 2007 and thereafter continued to serve as the non-executive Chairman until December 2011. Prior to joining Virginia National Bank, Mr. Giles also served as the president of two publicly traded bank holding companies and subsidiary banks in Texas and practiced law with the banking group of a Houston law firm. He chairs the board of Expedition Trust Company and is a director of Door to Door Organics, Inc. Mr. Giles received a B.S. from the McIntire School of Commerce at the University of Virginia and a J.D. from the University of Virginia School of Law.

The Board believes Mr. Giles’ perspective and experience as a director of Diffusion, as well as the depth and breadth of his business and legal experience, provide him with the qualifications to serve as a director.

Alan Levin – Mr. Levin has served as a director since the completion of the Merger in January 2016 and as a director of Diffusion LLC since June 2015. He previously served as Executive Vice President and Chief Financial Officer of Endo Health Solutions Inc. (“Endo”), a global specialty healthcare company, from June 2009 until his retirement in September 2013. Prior to joining Endo, Mr. Levin worked with Texas Pacific Group, a leading private equity firm, and one of their start-up investments. Before that, he was Senior Vice President & Chief Financial Officer of Pfizer, Inc. where he worked for 20 years in a variety of executive positions of increasing responsibility, including Treasurer and Senior Vice President of Finance & Strategic Management for the company’s research and development organization. Mr. Levin received a bachelor’s degree from Princeton University and a master’s degree from New York University’s Stern School of Business. Mr. Levin is a certified public accountant. He is a member of the board of directors of Aceto Corp, a NASDAQ-traded company specialized in generics and pharmaceutical intermediate products. He is also a member of the Advisory Board of Auven Therapeutics, a private equity fund; and the Critical Path Institute, a nonprofit collaboration between the Food and Drug Administration and pharmaceutical industry participants focused on streamlining and accelerating the development and regulatory pathways for innovative medicines.

The Board believes that the combination of Mr. Levin’s perspective and experience as a director of Diffusion; his experience in financial reporting, treasury and corporate finance (including his prior positions as chief financial officer of Endo and Pfizer, Inc.); and his executive-level experience in the pharmaceutical industry all provide him with the qualifications and skills to serve as a director.

Executive Officers

The table below sets forth, as of April 17, 2017, certain information concerning our executive officers. Biographical information for Mr. Kalergis and Dr. Gainer is included above under the heading, “—*Directors.*”

Name	Age	Position with Diffusion
David G. Kalergis	68	Chairman and Chief Executive Officer
John L. Gainer, Ph.D	78	Chief Scientific Officer
Ben L. Shealy	59	Senior Vice President – Finance, Treasurer and Secretary
Thomas Byrne	60	General Counsel

Ben L. Shealy – Mr. Shealy serves as our Senior Vice President – Finance, Treasurer and Secretary. Mr. Shealy was appointed Senior Vice President – Finance, Treasurer and Secretary in connection with the completion of the Merger. Mr. Shealy has served as Diffusion LLC’s Senior Vice President – Finance and Treasurer, since December 2015, and prior to that had served as Diffusion LLC’s Chief Financial Officer since 2004. Prior to joining Diffusion LLC, Mr. Shealy spent more than 20 years in the financial management industry focusing on private and public corporate financings, including serving as the Vice President of REBAR Inc. and positions with Donaldson, Lufkin & Jenrette, Prudential-Bache Capital Funding and the John Hancock Derivatives Group. Mr. Shealy received a B.S. in accounting from San Jose State University, an M.B.A. in finance from Columbia University and is a CFA Charter holder.

Thomas Byrne – Mr. Byrne was appointed as our General Counsel in connection with the completion of the Merger. Mr. Byrne served as a director of Diffusion LLC from 2001 to January 2016, as a director of the Company from January 2016 until April 2016 and has served as Diffusion LLC’s Secretary and Director of Patent Strategy since 2007. Prior to joining Diffusion LLC, Mr. Byrne served in in-house counsel positions at both Genentech Inc. and Amgen Inc., where he co-invented the erythropoiesis stimulating agent darbepoietin alpha (Aranesp®). From 1992 to 2000, he was a partner in the intellectual property law firm of Nixon and Vanderhye P.C. Mr. Byrne also currently acts as a consultant for start-up biotechnology companies on intellectual property, contract and business issues. He received a B.S. in chemical engineering and nuclear engineering, as well as a J.D., from the University of Virginia, and an M.S. in biochemical engineering from Yale University.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires our directors and executive officers and all persons who beneficially own more than 10 percent of the outstanding shares of our common stock to file with the SEC initial reports of ownership and reports of changes in ownership of our common stock. Directors, executive officers and greater than 10 percent beneficial owners also are required to furnish us with copies of all Section 16(a) forms they file.

To our knowledge, based on a review of the copies of such reports and amendments to such reports furnished to us with respect to the year ended December 31, 2016, and based on written representations by our directors and executive officers, all required Section 16 reports under the Exchange Act, for our directors, executive officers and beneficial owners of greater than 10 percent of our common stock were filed on a timely basis during the year ended December 31, 2016, except for the following: on January 13, 2016, Mr. Kalergis filed a Form 4 for a transaction that occurred on January 8, 2016; on February 19, 2016, Mr. Gilliam filed a Form 3 for a transaction that occurred on January 8, 2016; on May 20, 2016, each of Dr. Gainer and Messrs. Kalergis, Shealy and Byrne filed a Form 4 for transactions that occurred on May 16, 2016; on August 30, 2016 and September 16, 2016, Mr. Blech filed a Form 3 and a Form 4, respectively, for transactions that occurred on August 11, 2016 and August 31, 2016, respectively; and on December 13, 2016, each of Dr. Gainer and Messrs. Kalergis, Shealy, Levin, Giles and Adams filed a Form 4 for transactions that occurred on December 8, 2016.

The Board, Its Committees and Corporate Governance

Our common stock is currently listed for quotation on the NASDAQ Capital Market under the symbol “DIFFN.” As required by the Listing Rules of The NASDAQ Stock Market, the Board has adopted certain governance standards, including its standard of independence.

Corporate Governance Guidelines

Our Board of Directors has adopted Corporate Governance Guidelines, a copy of which can be found on the Investor Relations—Corporate Governance section of our corporate website at www.diffusionpharma.com. Among the topics addressed in our Corporate Governance Guidelines are:

- Board size, composition and qualifications;
- Selection of directors;
- Board leadership;
- Board committees;
- Board and committee meetings;
- Executive sessions of outside directors;
- Meeting attendance by directors and non-directors;
- Appropriate information and access;
- Ability to retain advisors;
- Conflicts of interest and director independence;
- Board interaction with corporate constituencies;
- Stock ownership by directors and executive officers;
- Retirement and term limits;
- Retirement and resignation policy;
- Board compensation;
- Loans to directors and executive officers;
- Chief Executive Officer evaluation;
- Board and committee evaluations;
- Director continuing education;
- Succession planning;
- Related person transactions;
- Communication with directors
- Director attendance at annual meetings of stockholders; and
- Change of principal occupation and board memberships.

Director Independence

The Board has determined that four of our six current directors — Isaac Blech, Robert Adams, Mark T. Giles and Alan Levin — are “independent directors” under the Listing Rules of The NASDAQ Stock Market. The Listing Rules of The NASDAQ Stock Market provide a non-exclusive list of persons who are not considered independent. For example, under these rules, a director who is, or during the past three years was, employed by Diffusion or by any parent or subsidiary of Diffusion, other than prior employment as an interim chairman or Chief Executive Officer, would not be considered independent. No director qualifies as independent unless the Board affirmatively determines that the director does not have a material relationship with the listed company that would interfere with the exercise of independent judgment. In making an affirmative determination that a director is an “independent director,” the Board reviewed and discussed information provided by these individuals and by us with regard to each of their business and personal activities as they may relate to us and our management. Mr. Kalergis and Dr. Gainer are not considered independent due to their executive officer positions with the Company.

Board Leadership Structure

The Board believes that our stockholders are best served if the Board retains the flexibility to adapt its leadership structure to applicable facts and circumstances, which necessarily change over time. Accordingly, under our Corporate Governance Guidelines, the office of Chairman of the Board and Chief Executive Officer may or may not be held by one person. The Board believes it is best not to have a fixed policy on this issue and that it should be free to make this determination based on what it believes is best under the circumstances.

Currently, David G. Kalergis serves as both the Chairman of the Board and as our Chief Executive Officer. The Board believes that it is currently in the best interests of the Company's stockholders to combine these offices as it promotes information flow between management and the Board, effective decision making and an alignment of corporate strategy. However, the Board strongly endorses the concept of an independent director being in a position of leadership for the rest of the outside directors. Under our Corporate Governance Guidelines, if at any time the Chief Executive Officer and Chairman of the Board positions are held by the same person, the Board, upon recommendation of the Nominating and Corporate Governance Committee, will elect an independent director as a lead independent director. Mark T. Giles currently serves as our lead independent director. In addition, Isaac Blech, also an independent director, serves as the Vice Chairman of the Board.

Executive Sessions

At each regular meeting of the Board, our independent directors meet in executive session with no company management present during a portion of the meeting. Mr. Giles as our lead independent director presides over these executive sessions and serves as a liaison between the independent directors and our Chief Executive Officer.

Board Meetings and Attendance

The Board held 11 meetings during 2016. Each of the directors on the Board during 2016 attended 75 percent or more of the aggregate meetings of the Board and all committees on which he served for the period during 2016 in which he served as a director. In addition, the Company's directors are expected to attend annual meetings of stockholders, and all of the Company's directors who were serving as directors at the time of the 2016 annual meeting attended the 2016 annual meeting of stockholders or participated telephonically.

Board Committees

The Board has three standing committees: Audit Committee, Compensation Committee and Nominating and Corporate Governance Committee. Each of these committees has the composition and responsibilities described below. The Board from time to time may establish other committees to facilitate the management of our company and may change the composition and the responsibilities of our existing committees. Each of our three standing committees has a charter which can be found on the Investor Relations—Corporate Governance section of our corporate website at www.diffusionpharma.com. Messrs. Adams, Giles and Levin currently serve as the members of all three of our standing committees. Mr. Adams is the chairman of the Compensation Committee, Mr. Giles is the chairman of the Nominating and Corporate Governance Committee and Mr. Levin is the chairman of the Audit Committee.

Audit Committee

Responsibilities. The primary responsibilities of the Audit Committee include:

- overseeing our accounting and financial reporting processes, systems of internal control over financial reporting and disclosure controls and procedures on behalf of the Board and reporting the results or findings of its oversight activities to the Board;

- having sole authority to appoint, retain and oversee the work of our independent registered public accounting firm and establishing the compensation to be paid to the independent registered public accounting firm;
- establishing procedures for the receipt, retention and treatment of complaints regarding accounting, internal accounting controls and/or auditing matters and for the confidential, anonymous submission by our employees of concerns regarding questionable accounting or auditing matters;
- reviewing and pre-approving all audit services and permissible non-audit services to be performed for us by our independent registered public accounting firm as provided under the federal securities laws and rules and regulations of the SEC; and
- overseeing our system to monitor and manage risk, and legal and ethical compliance programs, including the establishment and administration (including the grant of any waiver from) a written code of ethics applicable to each of our principal executive officer, principal financial officer, principal accounting officer or controller or persons performing similar functions.

The Audit Committee has the authority to engage the services of outside experts and advisors as it deems necessary or appropriate to carry out its duties and responsibilities.

Composition and Audit Committee Financial Expert. The current members of the Audit Committee are Messrs. Adams, Giles and Levin. Mr. Levin is the chair of the Audit Committee.

Each current member of the Audit Committee qualifies as “independent” for purposes of membership on audit committees under the Listing Rules of The NASDAQ Stock Market and the rules and regulations of the SEC and is “financially literate” under the Listing Rules of The NASDAQ Stock Market. In addition, the Board has determined that Mr. Levin qualifies as an “audit committee financial expert” as defined by the rules and regulations of the SEC and meets the qualifications of “financial sophistication” under the Listing Rules of The NASDAQ Stock Market as a result of his experience in senior financial positions. Stockholders should understand that these designations related to the Audit Committee members’ experience and understanding with respect to certain accounting and auditing matters are disclosure requirements of the SEC and The NASDAQ Stock Market and do not impose upon any of them any duties, obligations or liabilities that are greater than those generally imposed on a member of the Audit Committee or of the Board.

Meetings. The Audit Committee met 8 times during 2016.

Processes and Procedures for Complaints. The Audit Committee has established procedures for the receipt, retention and treatment of complaints received by us regarding accounting, internal accounting controls, or auditing matters, and the submission by our employees, on a confidential and anonymous basis, of concerns regarding questionable accounting or auditing matters. Our personnel with such concerns are encouraged to discuss their concerns with their supervisor first, who in turn will be responsible for informing our Chief Executive Officer of any concerns raised. If an employee prefers not to discuss a particular matter with his or her own supervisor, the employee may instead discuss such matter with our Chief Executive Officer. If an individual prefers not to discuss a matter with the Chief Executive Officer or if the Chief Executive Officer is unavailable and the matter is urgent, the individual is encouraged to contact the Chair of the Audit Committee, Alan Levin.

Compensation Committee

Responsibilities. The primary responsibilities of the Compensation Committee include:

- determining the annual salaries, incentive compensation, long-term incentive compensation, special or supplemental benefits or perquisites and any and all other compensation applicable to our Chief Executive Officer and other executive officers;

- determining any revisions to corporate goals and objectives with respect to compensation for our Chief Executive Officer and other executive officers and establishing and leading a process for the full Board to evaluate the performance of our Chief Executive Officer and other executive officers in light of those goals and objectives;
- administering our equity-based compensation plans, including determining specific grants of options and other awards for executive officers and other employees under our equity-based compensation plans;
- reviewing and discussing with our Chief Executive Officer and reporting periodically to the Board plans for executive officer development and corporate succession plans for the Chief Executive Officer and other key executive officers and employees; and
- establishing and leading a process for determination of the compensation applicable to the non-employee directors on the Board.

The Compensation Committee has the authority to engage the services of outside experts and advisors as it deems necessary or appropriate to carry out its duties and responsibilities.

Composition. The current members of the Compensation Committee are Messrs. Adams, Giles and Levin. Mr. Adams is the chair of the Compensation Committee. Each of the three current members of the Compensation Committee is an “independent director” under the Listing Rules of The NASDAQ Stock Market and a “non-employee director” within the meaning of Rule 16b-3 under the Exchange Act.

Meetings. The Compensation Committee met 16 times during 2016.

Processes and Procedures for Consideration and Determination of Executive Compensation. As mentioned above, the Compensation Committee has authority to determine all compensation applicable to our executive officers. In setting executive compensation for our executive officers, the Compensation Committee considers, among other things, the following primary factors: each executive’s position within the company and the level of responsibility; the ability of the executive to affect key business initiatives; the executive’s individual experience and qualifications; compensation paid to executives of comparable positions by companies similar to our company; company and individual performance; the executive’s current and historical compensation levels; recommendations of our Chief Executive Officer and input from the Compensation Committee’s independent consulting firm, Radford.

In making decisions regarding the form and amount of compensation to be paid to our executive officers (other than our Chief Executive Officer), the Compensation Committee considers and gives weight to the recommendations of our Chief Executive Officer recognizing that due to his reporting and otherwise close relationship with each executive, the Chief Executive Officer often is in a better position than the Compensation Committee to evaluate the performance of each executive (other than himself). In making decisions regarding the form and amount of compensation to be paid to our Chief Executive Officer, the Compensation Committee considers the recommendation of the Chief Executive Officer with respect to his own compensation and the Compensation Committee’s own assessment of the Chief Executive Officer’s annual performance and input from other Board members. The Compensation Committee meets in executive session regularly and makes all executive compensation decisions without the presence of the Chief Executive Officer or any executive or employee of our company.

The Compensation Committee has retained the services of Radford to provide advice with respect to executive compensation. Radford was engaged directly by the Compensation Committee in 2016 and did not advise our management and only worked with management with the express permission of the Compensation Committee. Radford did not provide any services to our company in 2016 other than those for which it was retained by the Compensation Committee. Radford’s engagement by the Compensation Committee includes reviewing and advising on all significant aspects of executive compensation. This includes base salaries, short-term cash incentives and long-term equity incentives for our executives, and cash compensation and long-term equity incentives for our non-employee directors. In so doing, at the request of the Compensation Committee, Radford recommended a peer group of companies, collected relevant market data from these companies to allow the Compensation Committee to compare elements of our executive compensation program to those of our peers and made other recommendations to the Compensation Committee regarding certain aspects of our executive compensation program. In making decisions regarding the form and amount of compensation to be paid to our executives, the Compensation Committee considers the information gathered by, and the recommendations of, Radford.

Processes and Procedures for Consideration and Determination of Director Compensation. The Board has delegated to the Compensation Committee the responsibility, among other things, to establish and lead a process for determination of compensation payable to our non-employee directors. The Compensation Committee makes recommendations regarding compensation payable to our non-employee directors to the entire Board, which then makes the final decisions.

In making decisions regarding compensation to be paid to our non-employee directors, the Board considers the recommendations of Radford, but also other factors, such as its own views as to the form and amount of compensation to be paid, the current and anticipated time demands placed on non-employee directors and other factors that may be relevant.

Nominating and Corporate Governance Committee

Responsibilities. The primary responsibilities of the Nominating and Corporate Governance Committee are:

- identifying individuals qualified to become Board members;
- recommending director nominees for each annual meeting of our stockholders and director nominees to fill any vacancies that may occur between meetings of stockholders;
- being aware of best practices in corporate governance and developing and recommending to the Board a set of corporate governance standards to govern the Board, its committees, our company and our employees in the conduct of our business and affairs; and
- developing and overseeing a Board and Board committee evaluation process.

The Nominating and Corporate Governance Committee has the authority to engage the services of outside experts and advisors as it deems necessary or appropriate to carry out its duties and responsibilities.

Composition. The current members of the Nominating and Corporate Governance Committee are Messrs. Adams, Giles and Levin. Mr. Giles is the chair of the Nominating and Corporate Governance Committee. Each of the three current members of the Nominating and Corporate Governance Committee is an “independent director” within the meaning of the Listing Rules of The NASDAQ Stock Market.

Meetings. The Nominating and Corporate Governance Committee met 6 times during 2016.

Director Nominations Process

In selecting nominees for the Board, the Nominating and Corporate Governance Committee first determines whether the incumbent directors are qualified to serve, and wish to continue to serve, on the Board. The Nominating and Corporate Governance Committee believes that our company and stockholders benefit from the continued service of qualified incumbent directors because those directors have familiarity with and insight into our company’s affairs that they have accumulated during their tenure with Diffusion. Appropriate continuity of Board membership also contributes to the Board’s ability to work as a collective body. Accordingly, it is the practice of the Nominating and Corporate Governance Committee, in general, to re-nominate an incumbent director at the upcoming annual meeting of stockholders if the director wishes to continue his or her service with the Board, the director continues to satisfy the Nominating and Corporate Governance Committee’s criteria for membership on the Board, the Nominating and Corporate Governance Committee believes the director continues to make important contributions to the Board and there are no special, countervailing considerations against re-nomination of the director.

In identifying and evaluating new candidates for election to the Board, the Nominating and Corporate Governance Committee intends to first solicit recommendations for nominees from persons whom the Nominating and Corporate Governance Committee believes are likely to be familiar qualified candidates having the qualifications, skills and characteristics required for Board nominees from time to time. Such persons may include members of the Board and senior management of Diffusion. In addition, the Nominating and Corporate Governance Committee may engage a search firm to assist it in identifying qualified candidates. The Nominating and Corporate Governance Committee then intends to review and evaluate each candidate whom it believes merits serious consideration, taking into account available information concerning the candidate, any qualifications or criteria for Board membership established by the Nominating and Corporate Governance Committee, the existing composition of the Board and other factors that it deems relevant. In conducting its review and evaluation, the Nominating and Corporate Governance Committee may solicit the views of our management, other Board members and any other individuals it believes may have insight into a candidate. The Nominating and Corporate Governance Committee may designate one or more of its members and/or other Board members to interview any proposed candidate.

The Nominating and Corporate Governance Committee will consider recommendations for the nomination of directors submitted by our stockholders. The Nominating and Corporate Governance Committee will evaluate candidates recommended by stockholders in the same manner as those recommended as stated above.

There are no formal requirements or minimum qualifications that a candidate must meet in order for the Nominating and Corporate Governance Committee to recommend the candidate to the Board. The Nominating and Corporate Governance Committee believes that each nominee should be evaluated based on his or her merits as an individual, taking into account the needs of the Company and the Board. However, in evaluating candidates, there are a number of criteria that the Nominating and Corporate Governance Committee generally views as relevant and is likely to consider. Some of these factors include:

- whether the candidate is an “independent director” under applicable independence tests under the federal securities laws and rules and regulations of the SEC;
- whether the candidate is “financially sophisticated” and otherwise meets the requirements for serving as a member of an audit committee;
- whether the candidate is an “audit committee financial expert” under the rules and regulations of the SEC;
- the needs of the Company with respect to the particular talents and experience of our directors;
- the personal and professional integrity and reputation of the candidate;
- the candidate’s level of education and business experience;
- the candidate’s business acumen;
- the candidate’s level of understanding of our business and industry and other industries relevant to our business;
- the candidate’s ability and willingness to devote adequate time to the work of the Board and its committees;
- the fit of the candidate’s skills and personality with those of other directors and potential directors in building a board of directors that is effective, collegial and responsive to the needs of our company;
- whether the candidate possesses strategic thinking and a willingness to share ideas;

- the candidate’s diversity of experiences, expertise and background; and
- the candidate’s ability to represent the interests of all stockholders and not a particular interest group.

While we do not have a stand-alone diversity policy, in considering whether to recommend any director nominee, including candidates recommended by stockholders, the Nominating and Corporate Governance Committee will consider the factors above, including the candidate’s diversity of experiences, expertise and background. The Nominating and Corporate Governance Committee seeks nominees with a broad diversity of experience, expertise and backgrounds. The Nominating and Corporate Governance Committee does not assign specific weights to particular criteria and no particular criterion is necessarily applicable to all prospective nominees. We believe that the backgrounds and qualifications of the directors, considered as a group, should provide a significant mix of experience, knowledge and abilities that will allow the Board to fulfill its responsibilities.

Board Oversight of Risk

The Board as a whole has responsibility for risk oversight, with more in-depth reviews of certain areas of risk being conducted by the relevant Board committees that report on their deliberations to the full Board. The oversight responsibility of the Board and its committees is enabled by management reporting processes that are designed to provide information to the Board about the identification, assessment and management of critical risks and management’s risk mitigation strategies. The areas of risk that we focus on include regulatory, operational, financial (accounting, credit, liquidity and tax), legal, compensation, competitive, health, safety and environment, economic, political and reputational risks.

The standing committees of the Board oversee risks associated with their respective principal areas of focus. The Audit Committee’s role includes a particular focus on the qualitative aspects of financial reporting to stockholders, on our processes for the management of business and financial risk, our financial reporting obligations and for compliance with significant applicable legal, ethical and regulatory requirements. The Audit Committee, along with management, is also responsible for developing and participating in a process for review of important financial and operating topics that present potential significant risk to our company. The Compensation Committee is responsible for overseeing risks and exposures associated with our compensation programs and arrangements, including our executive and director compensation programs and arrangements, and management succession planning. The Nominating and Corporate Governance Committee oversees risks relating to our corporate governance matters and policies and director succession planning.

We recognize that a fundamental part of risk management is understanding not only the risks a company faces and what steps management is taking to manage those risks, but also understanding what level of risk is appropriate for our company. The involvement of the full Board in setting our business strategy is a key part of the Board’s assessment of management’s appetite for risk and also a determination of what constitutes an appropriate level of risk for our company.

We believe our current Board leadership structure is appropriate and helps ensure proper risk oversight for our company for a number of reasons, including: (1) general risk oversight by the full Board in connection with its role in reviewing our key long-term and short-term business strategies and monitoring on an on-going basis the implementation of our key business strategies; (2) more detailed oversight by our standing Board committees that are currently comprised of and chaired by our independent directors and (3) the focus of our Chairman of the Board on allocating appropriate Board agenda time for discussion regarding the implementation of our key business strategies and specifically risk management.

Code of Business Conduct and Ethics

Our Code of Business Conduct and Ethics applies to all of our directors, executive officers and other employees, and meets the requirements of the SEC. A copy of our Code of Business Conduct and Ethics will be available on the Investor Relations—Corporate Governance—Code of Business Conduct and Ethics section of our corporate website at www.diffusionpharma.com.

Process Regarding Stockholder Communications with Board of Directors

Stockholders may communicate with the Board or any one particular director by sending correspondence, addressed to our Secretary, Diffusion Pharmaceuticals Inc., 2020 Avon Court, Suite 4, Charlottesville, Virginia 22902, with an instruction to forward the communication to the Board or one or more particular directors. Our Secretary will forward promptly all such stockholder communications to the Board of Directors or the one or more particular directors, with the exception of any advertisements, solicitations for periodical or other subscriptions and other similar communications.

COMMITTEE REPORTS

Audit Committee Report

This report is furnished by the Audit Committee of the Board with respect to our financial statements for the year ended December 31, 2016.

One of the purposes of the Audit Committee is to oversee our accounting and financial reporting processes and the audit of our annual financial statements. Our management is responsible for the preparation and presentation of complete and accurate financial statements. Our independent registered public accounting firm is responsible for performing an independent audit of our financial statements in accordance with the standards of the Public Company Accounting Oversight Board (United States) and for issuing a report on their audit.

In performing its oversight role, the Audit Committee has reviewed and discussed our audited financial statements for the year ended December 31, 2016 with our management. Management represented to the Audit Committee that our financial statements were prepared in accordance with generally accepted accounting principles. The Audit Committee has discussed with KPMG, our independent registered public accounting firm for the year ended December 31, 2016, the matters required to be discussed under Public Company Accounting Oversight Board standards. The Audit Committee has received the written disclosures and the letter from our independent registered public accounting firm required by the applicable requirements of the Public Company Accounting Oversight Board regarding communications with audit committees concerning independence. The Audit Committee has discussed with KPMG its independence and concluded that the independent registered public accounting firm is independent from our company and our management.

Based on the review and discussions of the Audit Committee described above, the Audit Committee recommended to the Board that our audited financial statements for the year ended December 31, 2016 be included in our annual report on Form 10-K for the year ended December 31, 2016 for filing with the Securities and Exchange Commission.

This report is dated as of April 17, 2017.

Audit Committee
Alan Levin, Chair
Robert Adams
Mark T. Giles

Item 11. Executive Compensation

Merger with Diffusion Pharmaceuticals LLC

Effective immediately prior to the Effective Time of the Merger with Diffusion Pharmaceuticals LLC on January 8, 2016, the Company's board of directors accepted the resignations of Stephen M. Simes as Chief Executive Officer, Phillip B. Donenberg as Chief Financial Officer and Secretary, and Mark A. Weinberg, M.D. as Senior Vice President, Clinical Development (collectively, the "Pre-Merger Officers"). Following the completion of the Merger, David G. Kalergis, John L. Gainer and Ben L. Shealy were appointed as the Company's Chief Executive Officer, Chief Scientific Officer and Senior Vice President – Finance, Treasurer and Secretary, respectively. As a result, the following discussion of executive compensation relates to the compensation of our current named executive officers, Mr. Kalergis, Dr. Gainer and Mr. Shealy, for the year ended December 31, 2016 and, in accordance with and to the extent required by Item 402 of Regulation S-K promulgated under the Exchange Act, the compensation of the Pre-Merger Officers for the years ended December 31, 2016 and December 31, 2015.

Summary Compensation Table

The table below provides summary compensation information concerning all compensation awarded to the individuals that served as our named executive officers during the years ended December 31, 2016 and December 31, 2015 (as applicable).

SUMMARY COMPENSATION TABLE

Name and Principal Position	Year	Salary	Bonus	Option Awards (1)	All Other Compensation(2)	Total
David G. Kalergis <i>Chief Executive Officer</i>	2016	\$ 244,144	\$ 0	\$ 410,240	\$ 96,000	\$ 750,384
John L. Gainer, Ph.D. <i>Chief Scientific Officer</i>	2016	\$ 191,740	\$ 0	\$ 146,209	\$ 82,615	\$ 420,564
Ben L. Shealy <i>Senior Vice President – Finance, Treasurer & Secretary</i>	2016	\$ 152,225	\$ 0	\$ 107,892	\$ 62,359	\$ 322,476
Stephen M. Simes <i>Former Chief Executive Officer</i>	2016	\$ 9,316(3)	\$ 0	\$ 0	\$ 1,401,076	\$ 1,410,392
	2015	\$ 425,000	\$ 0	\$ 0	\$ 8,571	\$ 433,571
Phillip B. Donenberg(4) <i>Former Chief Financial Officer</i>	2016	\$ 7,343(3)	\$ 0	\$ 0	\$ 1,192,883	\$ 1,200,226
	2015	\$ 335,000	\$ 0	\$ 0	\$ 6,732	\$ 341,732
Mark A. Weinberg, M.D. <i>Former Senior Vice President, Clinical Development</i>	2016	\$ 7,825(3)	\$ 0	\$ 0	\$ 535,500	\$ 543,325
	2015	\$ 357,000	\$ 0	\$ 0	\$ 1,787	\$ 358,787

(1) The amounts shown in this column reflect the grant date fair value of option awards granted during the applicable year, calculated in accordance with the provisions of ASC Topic 718 and determined without regard to forfeitures. See the assumptions used in the Black-Scholes model in the notes to the audited financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2016.

(2) Represents annual cash incentive bonus paid to Messrs. Kalergis, Gainer and Shealy in March 2017 for service in 2016 in the amount of \$96,000, \$79,000 and \$58,000, respectively. The amounts reported in this column for Mr. Shealy and Dr. Gainer also represent 401(k) Plan matching contributions by the Company for the applicable year. The amounts reported in this column for Messrs. Simes and Donenberg and Dr. Weinberg represent the total non-equity severance benefits paid or payable to them (\$1,360,000, \$971,500 and \$535,500, respectively) as a result of their respective terminations of employment in connection with the Merger and monthly COBRA premium reimbursements, as described in more detail under the heading "—Post-Termination Severance and Change in Control Arrangements." In addition, the amount reported in this column for Mr. Donenberg includes the consulting fees he received during 2016 (\$208,923) pursuant to his consulting agreement with Diffusion LLC.

- (3) The amounts reported represent salaries earned by Messrs. Simes, Donenberg and Weinberg from January 1 to January 8, 2016 prior to the consummation of the Merger based on their employment agreements.
- (4) Mr. Donenberg served as the Chief Financial Officer of the Company prior to the consummation of the Merger. The compensation noted in the table above is comprised of Mr. Donenberg's severance as described below under the heading "*—Post-Termination Severance and Change in Control Arrangements—Pre-Merger Officers*" as well as fees paid to Mr. Donenberg pursuant to his consulting agreement with the Company as described below under the heading "*—Employment Agreements*."

Employment Agreements

David G. Kalergis, Chief Executive Officer. Effective September 6, 2016, we entered into an employment agreement with Mr. Kalergis pursuant to which he serves as our Chief Executive Officer. The employment agreement has an indefinite term. Mr. Kalergis is entitled to an annual base salary of \$410,000, subject to increase at the discretion of the Board. Mr. Kalergis has the opportunity to earn a target annual bonus of 45 percent of his base salary. The Board may, in its discretion, pay a portion of Mr. Kalergis' annual salary and annual bonus in the form of equity or equity-based compensation, provided that commencing with the year following the year in which a "change of control" (as defined in the employment agreement) occurs, Mr. Kalergis' entire base salary and annual bonus will be paid in cash. For 2016, the cash portion of Mr. Kalergis' base salary was \$214,000. The employment agreement contains certain severance and change of control provisions as described in more detail under the heading "*—Post-Termination Severance and Change in Control Arrangements*." The employment agreement also contains certain non-competition and non-solicitation provisions (each applicable during employment and for 24 months thereafter), as well as confidentiality and non-disparagement provisions (each applicable during employment and at all times thereafter).

John L. Gainer, Chief Scientific Officer. Effective October 18, 2016, we entered into an employment agreement with Dr. Gainer pursuant to which he serves as our Chief Scientific Officer. The employment agreement has an indefinite term. Dr. Gainer is entitled to an annual base salary of \$340,000, subject to increase at the discretion of the Board. Dr. Gainer has the opportunity to earn a target annual bonus of 35 percent of his base salary. The Board may, in its discretion, pay a portion of Dr. Gainer's annual salary and annual bonus in the form of equity or equity-based compensation, provided that commencing with the year following the year in which a "change of control" (as defined in the employment agreement) occurs, Dr. Gainer's entire base salary and annual bonus will be paid in cash. For 2016, the cash portion of Dr. Gainer's base salary was \$180,705. The employment agreement contains certain severance and change of control provisions as described in more detail under the heading "*—Post-Termination Severance and Change in Control Arrangements*." The employment agreement also contains certain non-competition and non-solicitation provisions (each applicable during employment and for 18 months thereafter), as well as confidentiality and non-disparagement provisions (each applicable during employment and at all times thereafter).

Ben L. Shealy, Senior Vice President – Finance, Treasurer and Secretary. Effective October 12, 2016, we entered into an employment agreement with Mr. Shealy pursuant to which he serves as our Senior Vice President – Finance, Treasurer and Secretary. The employment agreement has an indefinite term. Mr. Shealy is entitled to an annual base salary of \$231,000, subject to increase at the discretion of the Board. Mr. Shealy has the opportunity to earn a target annual bonus of 25 percent of his base salary. The Board may, in its discretion, pay a portion of Mr. Shealy's annual salary and annual bonus in the form of equity or equity-based compensation, provided that commencing with the year following the year in which a "change of control" (as defined in the employment agreement) occurs, Mr. Shealy's entire base salary and annual bonus will be paid in cash. For 2016, the cash portion of Mr. Shealy's base salary was \$145,000. The employment agreement contains certain severance and change of control provisions as described in more detail under the heading "*—Post-Termination Severance and Change in Control Arrangements*." The employment agreement also contains certain non-competition and non-solicitation provisions (each applicable during employment and for 18 months thereafter), as well as confidentiality and non-disparagement provisions (each applicable during employment and at all times thereafter).

Phillip B. Donenberg, Former Chief Financial Officer. On January 8, 2016 we entered into a consulting agreement with Phillip B. Donenberg pursuant to which Mr. Donenberg served as an SEC compliance and financial adviser to the Company. Mr. Donenberg served as a consultant from January 8, 2016 to August 2016 and received \$175 per hour for his services and \$14,935 for reimbursement of certain expenses. Under the consulting agreement, Mr. Donenberg was not entitled to participate in any employee benefit plan, program or arrangement sponsored by the Company, but was subject to our standard employee restrictive covenants. Mr. Donenberg was entitled to COBRA premium reimbursement pursuant to his previously terminated employment agreement as described in the Summary Compensation Table above. During the year ended December 31, 2016, we paid Mr. Donenberg approximately \$208,923 under the consulting agreement.

Other Compensatory Arrangements

The Compensation Committee administers the Company's 2015 Equity Incentive Plan, as amended, in which our named executive officers participate, the bonus payments made to our named executive officers provided for in the employment agreements discussed above under the heading "*Employment Agreements*" and any other compensation-related matters as they otherwise determine in their discretion. The shares underlying the option grants made in 2016 to the named executive officers vest in equal parts each month until fully vested on the third anniversary of the grant date.

Indemnification Agreements

We have entered into agreements with each of our former and current named executive officers named in this Amendment No. 1 under which we are required to indemnify them against expenses, judgments, penalties, fines, settlements and other amounts actually and reasonably incurred, including expenses of a derivative action, in connection with an actual or threatened proceeding if any of them may be made a party because he or she is or was one of our executive officers. We will be obligated to pay these amounts only if the executive officer acted in good faith and in a manner that he or she reasonably believed to be in or not opposed to our best interests. With respect to any criminal proceeding, we will be obligated to pay these amounts only if the executive officer had no reasonable cause to believe his or her conduct was unlawful. The indemnification agreements also set forth procedures that will apply in the event of a claim for indemnification.

Outstanding Equity Awards at Fiscal Year End

The table below provides information regarding unexercised stock option awards held by each of our named executive officers that remained outstanding at December 31, 2016.

OUTSTANDING EQUITY AWARDS AT FISCAL YEAR-END

Name	Grant Date	Option Awards			
		Number of Securities Underlying Unexercised Options (#) Vested	Number of Securities Underlying Unexercised Options (#) Unvested(1)	Option Exercise Price (\$)	Option Expiration Date
David G. Kalergis	5/17/2012	29,587	0	\$ 2.10	5/17/2022
	10/9/2012	9,132	0	\$ 2.10	10/9/2022
	10/9/2012	27,395	0	\$ 2.10	10/9/2022
	10/5/2013	12,785	0	\$ 3.40	10/5/2023
	10/5/2013	18,264	0	\$ 6.10	10/5/2023
	12/1/2014	12,181	6,083	\$ 4.10	12/1/2024
	12/1/2014	8,529	4,256	\$ 4.10	12/1/2024
	10/30/2015	14,210	22,317	\$ 5.40	10/30/2025
	10/30/2015	12,904	20,256	\$ 5.40	10/30/2025
	5/16/2016	3,974	16,443	\$ 9.60	5/16/2026
12/8/2016	2,917	102,083	\$ 2.74	12/8/2026	
John L. Gainer, Ph.D.	5/17/2012	22,649	0	\$ 2.10	5/17/2022
	10/9/2012	9,132	0	\$ 2.10	10/9/2022
	10/9/2012	18,264	0	\$ 2.10	10/9/2022
	10/5/2013	9,132	0	\$ 3.40	10/5/2023
	10/5/2013	18,264	0	\$ 6.10	10/5/2023
	12/1/2014	12,181	6,083	\$ 4.10	12/1/2024
	12/1/2014	7,310	3,648	\$ 4.10	12/1/2024
	10/30/2015	14,210	22,317	\$ 5.40	10/30/2025
	10/30/2015	8,526	13,390	\$ 5.40	10/30/2025
	5/16/2016	1,624	6,710	\$ 9.60	5/16/2026
12/8/2016	944	33,056	\$ 2.74	12/8/2026	
Ben L. Shealy	5/17/2012	42,006	0	\$ 2.10	5/17/2022
	10/9/2012	20,090	0	\$ 2.10	10/9/2022
	10/5/2013	9,132	0	\$ 3.40	10/5/2023
	12/1/2014	7,310	3,648	\$ 4.10	12/1/2024
	10/30/2015	9,240	14,503	\$ 5.40	10/30/2025
	5/16/2016	1,743	7,216	\$ 9.60	5/16/2026
	12/8/2016	444	15,556	\$ 2.74	12/8/2026
Stephen M. Simes	5/5/2014	50,000	0	\$ 25.00	5/5/2024
	7/24/2014	54,298	0	\$ 39.20	7/24/2024
Phillip B. Donenberg	5/27/2014	25,000	0	\$ 40.00	5/27/2024
	7/24/2014	27,148	0	\$ 39.20	7/24/2024
Mark A. Weinberg, M.D.	8/4/2014	52,148	0	\$ 39.20	8/4/2024

(1) The unvested shares underlying the option grants are scheduled to vest in equal parts each month over the 36 month period following the grant date.

401(k) Retirement Plan

We maintain the Diffusion Pharmaceuticals Inc. 401(k) plan pursuant to which all eligible employees are entitled to make pre-tax and after-tax contributions of their compensation. In addition, the Company makes discretionary matching contributions at the rate of 100% for contributions up to 3% of the participant's eligible compensation and 50% for any additional contributions up to 5% of the participant's eligible compensation. The matching contributions received by our named executive officers in 2015 and 2016 are reported in the "All Other Compensation" column of the Summary Compensation Table above.

Post-Termination Severance and Change in Control Arrangements

Current Named Executive Officers

As described under the heading “—*Employment Agreements*,” we have entered into employment agreements with each of Messrs. Kalergis and Shealy and Dr. Gainer that provide for certain severance and change of control benefits, subject to the execution and non-revocation of a release of claims by the executive or his estate (as applicable). Under Mr. Kalergis’ employment agreement, if his employment is terminated by us other than for “cause,” death or “disability,” or by Mr. Kalergis for “good reason” (as such terms are defined in the employment agreement), Mr. Kalergis will be entitled to any unpaid bonus earned in the year prior to the termination, a pro-rata portion of the bonus earned during the year of termination, continuation of base salary for 12 months, plus 12 months of COBRA premium reimbursement, provided that if such termination occurs within 60 days before or within 24 months following a “change of control” (as defined in the employment agreement), then Mr. Kalergis will be entitled to receive the same severance benefits as provided above, except that he will receive (a) a payment equal to two times the sum of his base salary and the higher of his target annual bonus opportunity and the bonus payment he received for the year immediately preceding the year in which the termination occurred instead of 12 months of base salary continuation, and (b) a payment equal to 36 times the monthly COBRA premium for him and his eligible dependents instead of 12 months of COBRA reimbursements (the payments in clauses (a) and (b) are paid in a lump sum in some cases and partly in a lump sum and partly in installments over 12 months in other cases). In addition, if Mr. Kalergis’ employment is terminated by us without cause or by Mr. Kalergis for good reason, in either case, upon or within 24 months following a change of control, then Mr. Kalergis will be entitled to full vesting of all equity awards received by him from us (with any equity awards that are subject to the satisfaction of performance goals deemed earned at not less than target performance, and with any equity award that is in the form of a stock option or stock appreciation right to remain outstanding and exercisable for 24 months following the termination date (but in no event beyond the expiration date of the applicable option or stock appreciation right)).

Under the employment agreements for Mr. Shealy and Dr. Gainer, in the event that the executive’s employment is terminated by us other than for “cause”, death or “disability” or upon his resignation for “good reason” (as such terms are defined in the applicable employment agreement), the executive will be entitled to any unpaid bonus earned in the year prior to the termination, a pro-rata portion of the bonus earned during the year of termination, continuation of base salary for 9 months, plus 12 months of COBRA premium reimbursement, provided that if such termination occurs within 60 days before or within 24 months following a “change of control” (as defined in the applicable employment agreement), then the executive will be entitled to receive the same severance benefits as provided above, except that he will receive (a) a payment equal to 1.5 times the sum of his base salary and the higher of his target annual bonus opportunity and the bonus payment he received for the year immediately preceding the year in which the termination occurred instead of 9 months of base salary continuation and (b) a payment equal to 18 times the monthly COBRA premium for the executive and his eligible dependents instead of 12 months of COBRA reimbursements (the payments in clauses (a) and (b) are paid in a lump sum in some cases and in installments over 9 or 12 months in other cases). In addition, if the executive’s employment is terminated by the Company without cause or by the executive for good reason, in either case, upon or within 24 months following a change of control, then the executive will be entitled to full vesting of all equity awards received by the executive from us (with any equity awards that are subject to the satisfaction of performance goals deemed earned at not less than target performance, and with any equity award that is in the form of a stock option or stock appreciation right to remain outstanding and exercisable for 24 months following the termination date (but in no event beyond the expiration date of the applicable option or stock appreciation right)).

Under the employment agreements for each of Messrs. Kalergis and Shealy and Dr. Gainer, in the event that the executive’s employment is terminated due to his death or disability, he (or his estate) will be entitled to any unpaid bonus earned in the year prior to the termination, a pro-rata portion of the bonus earned during the year of termination, 12 months of COBRA premium reimbursement and accelerated vesting of (a) all equity awards received in payment of base salary or an annual bonus and (b) with respect to any other equity award, the greater of the portion of the unvested equity award that would have become vested within 12 months after the termination date had no termination occurred and the portion of the unvested equity award that is subject to accelerated vesting (if any) upon such termination under the applicable equity plan or award agreement (with performance goals deemed earned at not less than target performance, and with any equity award that is in the form of a stock option or stock appreciation right to remain outstanding and exercisable for 12 months following the termination date or, if longer, such period as provided under the applicable equity plan or award agreement (but in no event beyond the expiration date of the applicable option or stock appreciation right)).

Further, under the terms of the stock option agreements with our executives, upon a completion of a “change of control” (as defined in the Diffusion Pharmaceuticals Inc. 2015 Equity Incentive Plan), options held by our executives will become immediately vested and remain exercisable through their expiration date regardless of whether the holder remains in the employment or service of the Company. Alternatively, in connection with a change of control, the Compensation Committee may, in its sole discretion, cash out the options.

Pre-Merger Officers

Pursuant to their employment agreements, upon the termination of their employment in connection with the Merger, each of Messrs. Simes and Donenberg received 24 months of base salary, plus two times the executive’s target annual bonus, and Dr. Weinberg received 18 months of base salary. In addition, each of these three executives were entitled to up to 18 months of COBRA premium reimbursement. Pursuant to their employment agreements, each of these executives are subject to certain confidentiality and assignment of inventions provisions. Furthermore, under the terms of their stock option agreements, options held by these executives became immediately vested in connection with the Merger and remain exercisable through their applicable expiration date. The total severance amounts paid to each of Messrs. Simes and Donenberg and Dr. Weinberg upon their termination of employment in connection with the Merger are reported in the Summary Compensation Table above.

DIRECTOR COMPENSATION

Overview of Director Compensation Program

As described in more detail under the heading “*The Board, Its Committees and Corporate Governance—Compensation Committee—Responsibilities*,” the Board has delegated to the Compensation Committee the responsibility, among other things, to establish and lead a process for the determination of compensation payable to our non-employee directors. The Compensation Committee makes recommendations regarding compensation payable to our non-employee directors to the entire Board, which then makes final decisions regarding such compensation.

The principal elements of our director compensation program for 2016 included:

- cash compensation in the form of annual cash retainers; and
- long-term equity-based incentive compensation, in the form of stock options.

We do not compensate our employee directors, Mr. Kalergis and Dr. Gainer, separately for serving on the Board. In addition, pursuant to the option agreement between the Company and Mr. Blech described below, Mr. Blech also does not receive the long-term incentive compensation and annual retainers otherwise payable to our non-employee directors.

Cash Compensation

The non-employee members of the Board were entitled to the following cash retainers for services in 2016:

Description	Annual Cash Retainer
Board Member	\$ 32,500
Lead Independent Director of the Board	\$ 3,000
Audit Committee Chair	\$ 15,000
Compensation Committee Chair	\$ 10,000
Nominating and Corporate Governance Committee Chair	\$ 7,000
Audit Committee Member (other than Chair)	\$ 6,000
Compensation Committee Member (other than Chair)	\$ 5,000
Nominating and Corporate Governance Committee Member (other than Chair)	\$ 3,000

The annual cash retainers are paid on a quarterly basis in arrears at the end of each calendar quarter. For example, the retainers paid at the end of the first calendar quarter are for the period from January 1 through March 31. The Compensation Committee has also reserved the right to make all or a portion of such payments in the form of equity rather than cash under certain conditions. During the fiscal year 2016, all retainers were paid in options to purchase shares of our common stock. The shares underlying such option grants are scheduled to vest in equal parts each month over the 36 month period following the grant date.

Long-Term Equity-Based Incentive Compensation

In addition to cash compensation, our non-employee directors receive long-term equity-based incentive compensation in the form of options to purchase shares of our common stock. Upon a non-employee director’s initial appointment to the Board, he or she shall receive a stock option award valued at \$100,000 vesting in equal annual installments over three years. In addition, each non-employee director receives annually a stock option award valued at \$50,000 vesting in equal monthly installments over three years (unless otherwise provided by the Compensation Committee). All such options have a ten-year term and an exercise price equal to the fair market value of our common stock on the grant date.

See the Director Compensation Table under the heading “—Summary Director Compensation Table for Fiscal 2016” for a summary of all options granted to our non-employee directors during the year ended December 31, 2016. See note 3 to the Director Compensation Table under the heading “—Summary Director Compensation Table for Fiscal 2016” for a summary of all options to purchase shares of our common stock held by our non-employee directors as of December 31, 2016.

Blech Option Agreement

In connection with his appointment to the Board on August 11, 2016 and in lieu of the compensation otherwise payable to our non-employee directors as described above, Mr. Blech was granted on August 31, 2016 a one-time stock option grant to purchase 204,907 shares of our common stock, which shares shall vest in equal quarterly installments over 10 years beginning September 30, 2016 (the “Blech Option Grant”). Mr. Blech generally has agreed not to sell any of the shares issuable upon exercise of the Blech Option Grant until August 11, 2021.

Indemnification Agreements

We have entered into agreements with each of the members of the Board under which we are required to indemnify them against expenses, judgments, penalties, fines, settlements and other amounts actually and reasonably incurred, including expenses of a derivative action, in connection with an actual or threatened proceeding if any of them may be made a party because he or she is or was one of our directors. We will be obligated to pay these amounts only if the director acted in good faith and in a manner that he or she reasonably believed to be in or not opposed to our best interests. With respect to any criminal proceeding, we will be obligated to pay these amounts only if the director had no reasonable cause to believe his or her conduct was unlawful. The indemnification agreements also set forth procedures that will apply in the event of a claim for indemnification.

Summary Director Compensation Table for Fiscal 2016

The table below provides summary information concerning the compensation of each individual who served as a director of the Company during the year ended December 31, 2016, other than David G. Kalergis, our Chief Executive Officer, and John L. Gainer, Ph.D., our Chief Scientific Officer.

DIRECTOR COMPENSATION

Name(1)	Fees Earned or Paid in Cash (\$)	Option Awards \$(2)(3)	All Other Compensation (\$)	Total (\$)
Isaac Blech	\$ 0	\$ 1,640,603	\$ 0	\$ 1,640,603
Mark T. Giles	\$ 0	\$ 76,263	\$ 0	\$ 76,263
Alan Levin	\$ 0	\$ 76,263	\$ 0	\$ 76,263
Robert Adams	\$ 0	\$ 76,263	\$ 0	\$ 76,263

(1) Sol J. Barer, Ph.D., Rex Bright and Nelson K. Stacks served as non-employee directors on the Board prior to the consummation of the Merger on January 8, 2016 but did not receive any compensation during 2016 for such service.

(2) The amounts shown in this column reflect the grant date fair value of option awards granted during 2016, calculated in accordance with the provisions of Financial Accounting Standards Board Accounting Standards Codification Topic 718 (“ASC Topic 718”), determined without regard to forfeitures. See the assumptions used in the Black-Scholes model in the notes to the audited financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2016. The amount includes both long-term equity-based incentive compensation and option grants in lieu of cash retainers as described above under “—Cash Compensation.”

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

Equity Compensation Plan Information

Plan category	Number of Securities to be Issued upon Exercise of Outstanding Options, Warrants and Rights (a)	Weighted Average Exercise Price of Outstanding Options, Warrants and Rights (b)	Number of Securities Remaining Available for Future Issuance under Equity Compensation Plans (Excluding Securities Reflected in Column (a)) (c)
Equity compensation plans approved by security holders	557,677	\$ 5.58	356,148
Equity compensation plans not approved by security holders	1,746,455	\$ 8.56	0
Total	2,304,132	\$ 7.84	356,148

Security Ownership of Certain Beneficial Owners and Management

Based on information available to us and filings with the SEC, the following table sets forth certain information regarding the beneficial ownership (as defined by Rule 13d-3 under the Exchange Act) of our outstanding common stock and Series A convertible preferred stock (the “Series A Preferred Stock”) as of April 17, 2017 for (i) each person who beneficially owns 5% or more of the shares of common stock or Series A Preferred Stock then outstanding; (ii) each of our current directors and nominees; (iii) each of our current named executive officers (as defined in Item 402(a)(3) of Regulation S-K under the Exchange Act); and (iv) all of our current directors and executive officers as a group.

Beneficial ownership and percentage ownership are determined in accordance with the rules of the SEC and include voting or investment power with respect to shares of stock. This information does not necessarily indicate beneficial ownership for any other purpose. Under these rules, shares of common stock issuable under stock options, the Series A Preferred Stock, our convertible debt instruments or warrants that are exercisable or convertible within 60 days of April 17, 2017 are deemed outstanding for the purpose of computing the beneficial ownership percentage of the holder thereof, but are not deemed outstanding for the purpose of computing the beneficial ownership percentage of any other person. Ownership is based upon information provided by each respective director and officer, Forms 4, Schedules 13D and 13G and other public documents filed with the SEC for some of the stockholders.

Unless otherwise indicated and subject to applicable community property laws, to our knowledge, each stockholder named in the following table possesses sole voting and investment power over their shares of common stock, except for those jointly owned with that person’s spouse. Unless otherwise indicated below, the address of each person listed on the table is c/o Diffusion Pharmaceuticals Inc. 2020 Avon Court, Suite 4, Charlottesville Virginia 22902.

Name and Address of Beneficial Owner	Shares of Common Stock Beneficially Owned ⁽¹⁾	Common Stock Beneficial Ownership Percentage ⁽²⁾	Percentage of Total Voting Power ⁽²⁾⁽³⁾
Greater than 5% Holders			
Richard Baxter Gilliam (4)	1,424,836	13.8%	7.4%
Ally Bridge Group Capital Partners II L.P. (5)	1,133,281	9.9%	2.8%
MTG Investment Holdings, LLC (6)	802,689	7.8%	4.2%
Michael S. & Ellen A. Geismar	552,414	5.3%	2.9%
Current Directors and Executive Officers			
David G. Kalergis (7)	286,458	2.7%	*
John L. Gainer, Ph.D. (8)	506,686	4.8%	1.9%
Ben L. Shealy (9)	95,491	*	*
Thomas Byrne (10)	260,544	2.5%	*
Mark T. Giles (6)(11)	878,679	8.4%	4.2%
Alan Levin (12)	61,805	*	*
Robert Adams (13)	134,298	1.3%	*
Isaac Blech (14)	90,503	*	*
All current directors and executive officers as a group (eight persons) (15)	2,314,464	20.9%	8.1%

*Indicates less than 1%.

- (1) Represents shares of common stock and shares of restricted stock held as of April 17, 2017 plus shares of common stock that may be acquired upon conversion of preferred shares or debt or exercise of options, warrants and other rights exercisable within sixty (60) days of April 17, 2017.
- (2) Based on 10,345,637 shares of common stock that were issued and outstanding as of April 17, 2017. The percentage ownership and voting power for each person (or all directors and executive officers as a group) is calculated by assuming the exercise or conversion of all options, warrants and convertible securities (including the Series A Preferred Stock) exercisable or convertible within sixty (60) days of April 17, 2017 held by such person and the non-exercise and non-conversion of all outstanding warrants, options and convertible securities (including the Series A Preferred Stock) held by all other persons (including our other directors and executive officers).
- (3) Based on an effective number of aggregate votes entitled to be cast of 19,289,032 and the number of shares of common stock and Series A Preferred Stock issued, outstanding and held by the holder as of April 17, 2017. On April 17, 2017, 10,345,637 shares of common stock and 12,376,329 shares of Series A Preferred Stock that were issued and outstanding as of April 17, 2017. In accordance with the Certificate of Designation, shares of Series A Preferred Stock issued in the initial closing of the Series A private placement on March 14, 2017 are entitled to 0.84874 votes per share and shares of Series A Preferred Stock issued in the final closing of the Series A private placement on March 31, 2017 are entitled to 0.50627 votes per share entitling the holders of shares of the Series A Preferred Stock to 8,943,395 votes in the aggregate.
- (4) Based solely on the Form 3 filed with the Securities and Exchange Commission by Mr. Gilliam on February 19, 2016. Consists of (a) 1,268,798 shares of common stock held by Mr. Gilliam directly and (b) 156,038 shares of common stock held by Westwood Tall Oaks LLC. Mr. Gilliam is a manager of Westwood Tall Oaks LLC.
- (5) Shares beneficially owned is based solely on the Schedule 13G/A filed with the SEC on April 6, 2017 by Ally Bridge Group Capital Partners II, L.P. (“Ally Bridge”). The address of Ally Bridge is Unit 3002-3004, 30th Floor, Gloucester Tower, The Landmark, 15 Queen’s Road Central, Hong Kong.
- (6) Mark T. Giles, one of our directors, is the sole member of MTG Investment Holdings, LLC and may be deemed to be the beneficial owner of such securities. Mr. Giles disclaims beneficial ownership of such securities except to the extent of his pecuniary interest therein.
- (7) Consists of (a) 68,670 shares of common stock held directly by Mr. Kalergis directly, (b) 7,388 shares of common stock held by Mr. Kalergis’ wife, (c) 38,252 shares of common stock held jointly with Mr. Kalergis’ wife, and (d) 172,148 shares of common stock issuable upon the exercise of options exercisable within 60 days of April 17, 2017.
- (8) Consists of (a) 372,572 shares of common stock held by the John L. Gainer Declaration of Trust dated February 19, 2008 and (b) 134,114 shares of common stock issuable upon the exercise of options exercisable within 60 days of April 17, 2017. Dr. Gainer is a trustee of the revocable trust, and, as such, may be deemed to share beneficial ownership of such shares. Dr. Gainer expressly disclaims beneficial ownership of any such shares except to the extent of his pecuniary interest therein.
- (9) Consists of shares of common stock issuable upon the exercise of options exercisable within 60 days of January 3, 2016.
- (10) Consists of (a) 139,187 shares of common stock held by Mr. Byrne directly and (b) 121,357 shares of common stock issuable upon the exercise of options exercisable within 60 days of April 17, 2017.
- (11) Consists of (a) 4,407 shares of common stock held for the benefit of Mr. Giles in his individual retirement account, (b) 802,689 shares of common stock held by MTG Investment Holdings, LLC and (c) 71,583 shares of common stock issuable upon the exercise of options exercisable within 60 days of April 17, 2017.
- (12) Consists of (a) 24,804 shares of common stock held by Mr. Levin directly and (b) 37,001 shares of common stock issuable upon the exercise of options exercisable within 60 days of April 17, 2017.
- (13) Consists of (a) 25,587 shares of common stock held directly by Mr. Adams directly, (b) 9,464 shares of common stock held jointly with Mr. Adams’ wife, (c) 18,898 shares of common stock held for the benefit of Mr. Adams in his 401(k) retirement account and (d) 80,349 shares of common stock issuable upon the exercise of options exercisable within 60 days of April 17, 2017.
- (14) Consists of (a) 28,334 shares of common stock held directly by Mr. Blech directly, (b) 11,905 shares of common stock held jointly with Mr. Blech’s wife, (c) 11,905 shares of common stock held for the benefit of Mr. Blech in a trust and (d) 38,359 shares of common stock issuable upon the exercise of options and warrants exercisable within 60 days of April 17, 2017.
- (15) Includes 750,402 shares of common stock issuable upon the exercise of options and warrants exercisable within 60 days of April 17, 2017.

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

Our Audit Committee is charged with the responsibility of reviewing and approving or ratifying all related person transactions in accordance with the Listing Rules of The NASDAQ Stock Market and other applicable law, rules and regulations and any related policies and procedures adopted by or on behalf of the Company and then in effect.

Since January 1, 2016 there have been no transactions to which we have been a party in which (i) the amount involved in the transaction exceeds \$120,000 and (ii) any of our directors, executive officers or, to our knowledge, beneficial owners of more than 5% of our capital stock had or will have a direct or indirect material interest.

Merger with Diffusion LLC

On January 8, 2016, in connection with the Merger, the Diffusion Units (and any securities convertible or exchangeable for Diffusion Units) held by each of our directors, executive officers and five-percent stockholders were converted into shares of common stock as set forth below pursuant to the terms of the merger agreement. The amounts shown include all Diffusion Units and common stock beneficially owned by each individual as described under the heading, “*Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters*” and certain of our directors, executive officers and five-percent stockholders disclaim beneficial ownership of certain of the shares listed below as set forth in the footnotes to the table under such heading.

Director / Officer / > 5% Holder	Diffusion Units Tendered	Options to purchase Diffusion Units Tendered	Shares of Common Stock Received (1)	Options to purchase Common Stock Received (1)
David G. Kalergis	351,722	541,782	128,473	197,894
John L. Gainer	1,020,000	452,006	372,572	165,102
Robert Adams	147,694	276,000	53,948	100,813
Mark T. Giles	1,735,836	252,000	634,042	92,047
Alan Levin	67,905	175,600	24,804	64,141
Thomas Byrne	381,056	439,000	139,187	160,351
David R. Jones	104,734	370,000	38,256	135,149
Ben L. Shealy	0	290,000	0	105,927
Richard Baxter Gilliam	3,900,817	0	1,424,835	0
Michael S. & Ellen A. Geismar	1,512,361	0	552,414	0

(1) Share figures presented in this column are after giving effect to our 1-for-10 reverse stock split on August 17, 2016.

Donenberg Consulting Agreement

During 2016, Diffusion LLC was party to a consulting agreement with Phillip Donenberg pursuant to which Mr. Donenberg provided certain financial consulting services to the Company. Mr. Donenberg’s compensation pursuant to this agreement is described above in the Summary Compensation Table.

Item 14. Principal Accountant Fees and Services

Change and Selection of Independent Registered Public Accounting Firm

On January 8, 2016, after the completion of the Merger, the Audit Committee of the Board (i) approved the dismissal of Deloitte & Touche LLP (“**Deloitte**”) as the Company’s independent registered public accounting firm effective as of the date of Deloitte’s completion of the audit services for the year ended December 31, 2015 and the filing of the Company’s annual report on Form 10-K for the year ended December 31, 2015 and (ii) appointed KPMG LLP (“**KPMG**”) as the Company’s independent registered public accounting firm for the year ending December 31, 2016. On March 25, 2016, the Company filed its annual report on Form 10-K for the year ended December 31, 2015.

Deloitte was initially engaged by the Company on November 20, 2014 and served as the Company’s independent registered public accounting firm for the year ended December 31, 2015. Deloitte’s report on the Company’s consolidated financial statements for the fiscal year ended December 31, 2015 did not contain an adverse opinion or disclaimer of opinion, nor was the report qualified or modified as to uncertainty, audit scope or accounting principles, except that Deloitte’s report includes explanatory paragraphs relating to the ability of the Company to continue as a going concern and the acquisition of Diffusion LLC pursuant to the Merger in January 2016.

During the fiscal year ended December 31, 2015 and the subsequent interim period prior to the Company’s dismissal of Deloitte on March 25, 2016, there were no: (i) disagreements with Deloitte on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure which, if not resolved to the satisfaction of Deloitte, would have caused Deloitte to make reference to the matter in their report, or (ii) reportable events as defined in Item 304(a)(1)(v) of Regulation S-K.

During the fiscal year ended December 31, 2015 and the subsequent interim period prior to the Company’s engagement of KPMG, neither the Company nor anyone acting on its behalf consulted KPMG regarding either: (i) the application of accounting principles to a specific transaction, either completed or proposed, or the type of audit opinion that might be rendered on the Company’s consolidated financial statements, and either a written report was provided to the Company or oral advice was provided that KPMG concluded was an important factor considered by the Company in reaching a decision as to the accounting, auditing or financial reporting issue; or (ii) any matter that was either the subject of a disagreement (as defined in Item 304(a)(1)(iv) of Regulation S-K) or a reportable event (as described in Item 304(a)(1)(v) of Regulation S-K).

Independent Auditor’s Fees

As we did not engage KPMG as our independent registered public accounting firm until after the completion of the Merger in January 2016, KPMG did not bill us for professional services during the year ended December 31, 2015. Accordingly, the table below presents fees billed to us for professional services rendered by KPMG, our current independent registered public accounting firm, for the year ended December 31, 2016 and by Deloitte, our former independent registered public accounting firm, for the year ended December 31, 2015.

	Aggregate Amount Billed	
	2016	2015
Audit Fees ⁽¹⁾	\$ 605,146	\$ 223,000
Audit-Related Fees	\$ 0	\$ 0
Tax Fees ⁽²⁾	\$ 22,997	\$ 0
All Other Fees	\$ 0	\$ 0

(1) Audit fees for 2016 consisted of fees payable to KPMG for the audit of our annual financial statements and the review of our quarterly financial information for the year ended December 31, 2016 and the audit of our annual financial statements for the year ended December 31, 2015. Audit fees for 2015 consisted of fees payable to Deloitte for the audit of our annual financial statements and the review of our quarterly financial information for the year ended December 31, 2015.

- (2) Tax Fees for 2016 consisted of fees payable to KPMG for NOL analysis performed through December 31, 2016.

Pre-Approval Policies and Procedures

The Audit Committee has adopted procedures pursuant to which all audit, audit-related and tax services and all permissible non-audit services provided by our independent registered public accounting firm must be pre-approved by the Audit Committee. All services rendered by KPMG during 2016 were permissible under applicable laws and regulations and were approved in advance by the former Audit Committee in accordance with the rules adopted by the SEC in order to implement requirements of the Sarbanes-Oxley Act of 2002 other than *de minimis* non-audit services allowed under applicable law.

PART IV

Item 15. Exhibits

(a)(1) and (a)(2): No financial statements or schedules are filed with this Amendment No. 1.

(a)(3) Exhibits:

Exhibit No.	Description	Method of Filing
2.1	Plan of Conversion, dated June 18, 2015	Incorporated by reference to Exhibit 2.1 to the registrant's current report on Form 8-K filed on June 18, 2015
2.2	Agreement and Plan of Merger dated as of December 15, 2015 among the Company, Arco Merger Sub, LLC and Diffusion Pharmaceuticals LLC *	Incorporated by reference to Exhibit 2.1 to the registrant's current report on Form 8-K filed on December 15, 2015
3.1	Certificate of Incorporation of Diffusion Pharmaceuticals Inc., as amended	Incorporated by reference to Original Filing
3.2	Bylaws of Diffusion Pharmaceuticals Inc., as amended	Incorporated by reference to Exhibit 3.4 to the registrant's annual report on Form 10-K for the year ended December 31, 2015
3.3	Certificate of Designation of Preferences, Rights and Limitations of the Series A Convertible Preferred Stock of Diffusion Pharmaceuticals Inc.	Incorporated by reference to Exhibit 3.1 to the registrant's current report on Form 8-K filed on March 15, 2017
3.5	Certificate of Conversion, as filed with the Secretary of State of the State of Delaware on June 18, 2015	Incorporated by reference to Exhibit 3.2 to the registrant's current report on Form 8-K filed on June 18, 2015
4.1	Form of Diffusion Pharmaceuticals Inc. Convertible Note Agreement	Incorporated by reference to Exhibit 4.1 to the registrant's current report on Form 8-K filed on October 3, 2016
4.2	Form of Diffusion Pharmaceuticals LLC Convertible Note Agreement	Incorporated by reference to Exhibit 4.7 to the registrant's annual report on Form 10-K for the year ended December 31, 2015
4.3	Form of Warrant issued to Investors in the 2017 Private Placement by Diffusion Pharmaceuticals Inc.	Incorporated by reference to Exhibit 4.1 to the registrant's current report on Form 8-K filed on March 15, 2017

4.4	Form of Warrant issued to Investors in the 2014 Private Placement by the Company	Incorporated by reference to Exhibit 4.1 to the registrant's current report on Form 8-K filed on April 29, 2014
4.5	Warrant, dated October 21, 2014, issued by the Company to Isaac Blech	Incorporated by reference to Exhibit 4.5 to the registrant's annual report on Form 10-K for the fiscal year ended December 31, 2014
4.6	Warrant, dated April 29, 2014, issued by the Company to Sol J. Barer, Ph.D.	Incorporated by reference to Exhibit 4.4 to the registrant's annual report on Form 10-K for the fiscal year ended December 31, 2014
4.7	Form of Registration Rights Agreement entered into by and among the Company and Investors in the 2014 Private Placement	Incorporated by reference to Exhibit 10.2 to the registrant's current report on Form 8-K filed on April 29, 2014
4.8	Registration Rights Agreement dated November 18, 2013 between the Company and Certain Holders	Incorporated by reference to Exhibit 10.4 to the registrant's current report on Form 8-K filed on November 22, 2013
10.1	Employment Agreement, dated as of September 6, 2016, by and between David G. Kalergis and Diffusion Pharmaceuticals Inc.**	Incorporated by reference to Exhibit 10.1 to the registrant's current report on Form 8-K as filed on September 8, 2016
10.2	Employment Agreement, dated as of October 12, 2016, by and between Ben L. Shealy and Diffusion Pharmaceuticals Inc.**	Incorporated by reference to Exhibit 10.1 to the registrant's current report on Form 8-K as filed on October 13, 2016
10.3	Diffusion Pharmaceuticals Inc. 2015 Equity Incentive Plan**	Incorporated by reference to Exhibit 10.2 to the registrant's current report on Form 8-K as filed on June 18, 2015
10.4	Amendment No. 1 to Diffusion Pharmaceuticals Inc. 2015 Equity Incentive Plan**	Incorporated by reference to Appendix B to the registrant's definitive proxy statement on Schedule 14A filed on June 10, 2016
10.5	Form of Diffusion Pharmaceuticals Inc. Stock Option Award Agreement**	Incorporated by reference to Original Filing
10.6	Form of Diffusion Pharmaceuticals LLC Stock Option Award Agreement**	Incorporated by reference to Exhibit 10.22 to the registrant's annual report on Form 10-K for the year ended December 31, 2015

10.7	Form of 2015 Incentive Stock Option Agreement under the Diffusion Pharmaceuticals Inc. 2015 Equity Incentive Plan**	Incorporated by reference to Exhibit 10.3 to the registrant's current report on Form 8-K filed on June 18, 2015
10.8	Form of 2015 Non-Statutory Stock Option Agreement under the Diffusion Pharmaceuticals Inc. 2015 Equity Incentive Plan**	Incorporated by reference to Exhibit 10.4 to the registrant's current report on Form 8-K filed on June 18, 2015
10.9	Form of Stock Option Agreement between the Company and certain former Executive Officers**	Incorporated by reference to Exhibit 10.12 to the registrant's annual report on Form 10-K for the fiscal year ended December 31, 2014
10.10	Form of Stock Option Agreement between the Company and certain former Directors**	Incorporated by reference to Exhibit 10.13 to the registrant's annual report on Form 10-K for the fiscal year ended December 31, 2014
10.11	Form of Indemnification Agreement between Diffusion Pharmaceuticals Inc. and each of its Directors and Officers**	Incorporated by reference to Exhibit 10.3 to the registrant's annual report on Form 10-K for the year ended December 31, 2015
10.12	Resignation Agreement, dated April 30, 2015, between the Company and Yael Schwartz, Ph.D.**	Incorporated by reference to Exhibit 10.1 to the registrant's current report on Form 8-K filed on May 1, 2015
10.13	Placement Agency Agreement, dated January 27, 2017, by and between Diffusion Pharmaceuticals Inc. and Maxim Merchant Capital, a division of Maxim Group LLC	Incorporated by reference to Exhibit 10.1 to the registrant's current report on Form 8-K filed on March 15, 2017
10.14	Form of 2017 Private Placement Subscription Agreement	Incorporated by reference to Exhibit 10.2 to the registrant's current report on Form 8-K filed on March 15, 2017
10.15	Settlement Agreement, dated September 27, 2016, by and among Diffusion Pharmaceuticals Inc., Diffusion Pharmaceuticals LLC, David Schmidt and the other parties thereto	Incorporated by reference to Exhibit 10.1 to the registrant's current report on Form 8-K filed on October 3, 2016
10.16	Contingent Value Rights Agreement, dated as of January 8, 2016, by and between Diffusion Pharmaceuticals Inc. and Computershare, Inc., as Rights Agent	Incorporated by reference to Exhibit 10.2 to the registrant's current report on Form 8-K filed on January 8, 2016

10.17	Amendment to the Placement Agency Agreement, dated March 14, 2017, by and between Diffusion Pharmaceuticals Inc. and Maxim Merchant Capital, advisor of Maxim Group LLC	Incorporated by reference to Original Filing
10.18	Employment Agreement, dated as of October 18, 2016, by and between John L. Gainer, Ph.D. and Diffusion Pharmaceuticals Inc.**	Filed herewith
21.1	Subsidiaries of Diffusion Pharmaceuticals Inc.	Incorporated by reference to Original Filing
23.1	Consent of KPMG LLP, independent registered public accounting firm	Incorporated by reference to Original Filing
31.1	Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 and SEC Rule 13a-14(a)	Filed herewith
31.2	Certification of Principal Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 and SEC Rule 13a-14(a)	Filed herewith
32.1	Certification of Chief Executive Officer and Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	Furnished herewith
101	The following materials from the registrant's annual report on Form 10-K for the year ended December 31, 2016, formatted in XBRL (Extensible Business Reporting Language): (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Operations, (iii) Consolidated Statements of Cash Flows, and (iv) Notes to Consolidated Financial Statements	Incorporated by reference to Original Filing

* All exhibits and schedules to this agreement have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The registrant will furnish the omitted exhibits and schedules to the SEC upon request by the SEC.

** A management contract or compensatory plan or arrangement.

ITEM 16. FORM 10-K SUMMARY

None.

SIGNATURES

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

Dated: April 28, 2017

DIFFUSION PHARMACEUTICALS INC.

By: /s/ DAVID G. KALERGIS

David G. Kalergis

Chairman and Chief Executive Officer

(Principal Executive Officer)

EMPLOYMENT AGREEMENT

This Employment Agreement (this "Agreement") is entered into as of October 18, 2016 (the "Effective Date") by and between Diffusion Pharmaceuticals Inc. (the "Company"), and John L. Gainer (the "Executive").

Recitals

WHEREAS, the Company desires to employ the Executive as a full-time employee of the Company and the Executive desires to accept employment with the Company upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, and intending to be legally bound hereby, it is hereby agreed as follows:

Agreement

1. Definitions.

1.1. "Affiliate" means as to any Person, any other Person that directly or indirectly controls, or is under common control with, or is controlled by, such first Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of voting equity interests, by contract or otherwise). For the avoidance of doubt, each member of the Company Group (other than the Company) is an Affiliate of the Company.

1.2. "Board" means the Board of Directors of the Company.

1.3. "Cause" means the Executive's (i) indictment for, or entering of a plea of guilty or nolo contendere (or its equivalent under any applicable legal system) with respect to (A) a felony or (B) any crime involving moral turpitude; (ii) commission of fraud, misrepresentation, embezzlement or theft against any Person; (iii) engaging in any intentional activity that injures or would reasonably be expected to injure (monetarily or otherwise), in any material respect, the reputation, the business or a business relationship of the Company or any of its Affiliates; (iv) gross negligence or willful misconduct in the performance of the Executive's duties to the Company or its Affiliates under this Agreement, or willful refusal or failure to carry out the lawful instructions of the Board or the Company's Chief Executive Officer (or any designee thereof) that are consistent with the Executive's title and position; (v) violation of any fiduciary duty owed to the Company or any of its Affiliates; or (vi) breach of any Restrictive Covenant (as defined below) or material breach or violation of any other provision of this Agreement, of a written policy or code of conduct of the Company or any of its Affiliates (as in effect from time to time) or any other agreement between the Executive and the Company or any of its Affiliates. Except when such acts constituting Cause which, by their nature, cannot reasonably be expected to be cured, the Executive shall have twenty (20) days following the delivery of written notice by the Company of its intention to terminate the Executive's employment for Cause within which to cure any acts constituting Cause. After the Company provides the notice of its intent to terminate Executive's employment for Cause, the Company may suspend the Executive from all his duties and responsibilities and prevent him from accessing the Company's or its Affiliates' premises or contacting any personnel of the Company or any of its Affiliates.

1.4. “Change of Control” means (i) the accumulation (if over time, in any consecutive twelve (12) month period), whether directly, indirectly, beneficially or of record, by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended) of 50.1% or more of the shares of the outstanding voting securities of the Company, whether by merger, consolidation, sale or other transfer of shares (other than a merger or consolidation where the stockholders of the Company immediately prior to the merger or consolidation are immediately after such merger or consolidation the direct or indirect beneficial owners of a majority of the voting securities of the entity that survives such merger or consolidation), (ii) a sale of all or substantially all of the assets of the Company and its Subsidiaries, determined on a consolidated basis or (iii) during any period of twelve (12) consecutive months, the individuals who, at the beginning of such period, constitute the Board, and any new director whose election by the Board or nomination for election by the Company’s stockholders was approved by a vote of at least a majority of the directors then still in office who either were directors at the beginning of the 12-month period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the Board; provided, however, that the following acquisitions shall not constitute a Change of Control for the purposes of this Agreement: (A) any acquisitions of voting securities or securities convertible, exercisable or exchangeable into voting securities directly from the Company or (B) any acquisition of voting securities or securities convertible, exercisable or exchangeable into voting securities by any employee benefit plan (or related trust) sponsored by or maintained by the Company or any of its Subsidiaries; provided further, that a transaction will not be a Change of Control unless it satisfies the requirements of Treasury Regulation 1.409A-3(i)(5)(v), (vi) or (vii).

1.5. “Code” means the Internal Revenue Code of 1986, as amended.

1.6. “Company Group” means the Company and the direct and indirect Subsidiaries of the Company.

1.7. “Company Invention” means any Invention that is Invented by the Executive (alone or jointly with others) (i) in the course of, in connection with, or as a result of the Executive’s employment or other service with any member of the Company Group (whether before, on or after the Effective Date), (ii) at the direction or request of any member of the Company Group, or (iii) through the use of, or that is related to, facilities, equipment, Confidential Information, other Company Inventions, intellectual property or other resources of any member of the Company Group, whether or not during the Executive’s work hours.

1.8. “Confidential Information” shall mean all information of a sensitive, confidential or proprietary nature respecting the business and activities of any member of the Company Group or any of their respective Affiliates, or the predecessors and successors of any member of the Company Group or any of their respective Affiliates, including, without limitation, the terms and provisions of this Agreement (except for the terms and provisions of Sections 4.4 through 4.17), and the clients, customers, suppliers, computer or other files, projects, products, computer disks or other media, computer hardware or computer software programs, marketing plans, financial information, methodologies, Inventions, know-how, research, developments, processes, practices, approaches, projections, forecasts, formats, systems, data gathering methods and/or strategies of any member of the Company Group or any of their respective Affiliates. “Confidential Information” also includes all information received by the Company or any other member of the Company Group under an obligation of confidentiality to a third party. Notwithstanding the foregoing, Confidential Information shall not include any information that is generally available, or is made generally available, to the public other than as a result of a direct or indirect unauthorized disclosure by the Executive or any other Person subject to a confidentiality obligation.

1.9. “Disability” means that the Executive has been unable, as determined by the Board (excluding the Executive) in good faith, to perform the Executive’s duties under this Agreement for a period of ninety (90) consecutive days or for a total of one hundred and twenty (120) days (whether or not consecutive) during any period of twelve (12) consecutive months, as a result of injury, illness or any other physical or mental impairment.

1.10. “Good Reason” means any of the following actions taken by the Company without the Executive’s prior written consent: (i) a material reduction in the Executive’s duties, responsibilities or authority; (ii) a material reduction of the Executive’s Base Salary (as defined below); (iii) failure or refusal of a successor to the Company to either materially assume the Company’s obligations under this Agreement or enter into a new employment agreement with the Executive on terms that are materially similar to those provided under this Agreement, in any case, in the event of a Change of Control; (iv) relocation of the Executive’s primary work location that results in an increase in the Executive’s one-way driving distance by more than twenty-five (25) miles from the Executive’s then-current principal residence; or (v) a material breach of this Agreement by the Company. Notwithstanding the foregoing, Good Reason shall not be deemed to exist unless (A) the Executive gives the Company written notice within sixty (60) days after the occurrence of the event which the Executive believes constitutes the basis for Good Reason, specifying the particular act or failure to act which the Executive believes constitutes the basis for Good Reason, (B) the Company fails to cure such act or failure to act within thirty (30) days after receipt of such notice and (C) the Executive terminates his employment within thirty (30) days after the end of such 30-day cure period specified in clause (B).

1.11. “Invented” means made, conceived, invented, authored, or first actually reduced to practice (in any case, whether partially or fully).

1.12. “Invention” means any invention, formula, therapy, diagnostic technique, discovery, improvement, idea, technique, design, method, art, process, methodology, algorithm, machine, development, product, service, technology, strategy, software, work of authorship or other Works (as defined in Section 4.13), trade secret, innovation, trademark, data, database, or the like, whether or not patentable, together with all intellectual property rights therein.

1.13. “Person” means an individual, partnership, limited liability company, corporation, association, joint stock company, trust, joint venture, unincorporated organization, investment fund, any other business entity and a governmental entity or any department, agency or political subdivision thereof.

1.14. “Subsidiary” means, with respect to any Person, any other Person in which such first Person has a direct or indirect equity ownership interest of at least 50%.

1.15. “Term of Employment” means the period of the Executive’s employment under this Agreement.

1.16. “Termination Date” means the date the Executive’s employment with the Company terminates for any reason.

2. Employment.

2.1. **Executive’s Representations.** The Executive represents that (i) the Executive is entering into this Agreement voluntarily and that the Executive’s employment hereunder and compliance with the terms and conditions hereof will not conflict with or result in the breach by the Executive of any agreement to which the Executive is a party or by which the Executive may be bound and (ii) in connection with the Executive’s employment with the Company or any other member of the Company Group, the Executive will not (A) violate any non-competition, non-solicitation or other similar covenant or agreement by which the Executive is or may be bound or (B) use any confidential or proprietary information that the Executive may have obtained in connection with the Executive’s employment or engagement with any other Person.

2.2. **Position; Duties and Responsibilities.** During the Term of Employment, the Executive shall be employed as the Company’s Chief Scientific Officer, with such duties and responsibilities that are consistent with such position as may be assigned by the Board (excluding the Executive) or the Company’s Chief Executive Officer (or any designee thereof) from time to time. In addition, during the Term of Employment, the Executive shall serve in such other officer and/or director positions with any member of the Company Group (for no additional compensation) as may be determined by the Board (excluding the Executive) from time to time. The Executive further agrees that, during the Term of Employment, he shall not knowingly take any action that is contrary to, or in conflict with, the best interests of the Company Group.

2.3. **Reporting; Outside Activities.** During the Term of Employment, the Executive shall report to the Company’s Chief Executive Officer (or any designee thereof), and the Executive shall diligently and conscientiously devote the Executive’s full business time, attention, energy, skill and best efforts to the business and affairs of the Company Group. Notwithstanding the foregoing, the Executive may (i) continue to serve as a member of the board of any organization listed in Exhibit A hereto, (ii) serve on other boards as may be approved by the Board (excluding the Executive) in its sole discretion, (iii) engage in educational, charitable and civic activities and (iv) manage the Executive’s personal and business investments and affairs, so long as such activities (A) do not, individually or in the aggregate, interfere with the performance of the Executive’s duties under this Agreement and (B) are not contrary to the interests of the Company Group or competitive in any way with the Company Group. Subject to the foregoing, during the Term of Employment, the Executive shall not, directly or indirectly, render any services of a business, commercial, or professional nature to any other Person, whether for compensation or otherwise, without the prior written consent of the Board (excluding the Executive).

3. **Compensation and Other Benefits.**

3.1. Base Salary. During the Term of Employment, the Executive shall receive an initial base salary per annum of \$340,000, the cash portion of which shall be payable in accordance with the Company's normal payroll practices as in effect from time to time. During the Term of Employment, the Board may review the Executive's base salary and the Board (excluding the Executive) may, in its sole discretion, increase (but not decrease) such base salary by an amount it determines to be appropriate. The Executive's base salary, as may be in effect from time to time, is referred to herein as "**Base Salary.**" Notwithstanding anything herein to the contrary, with respect to any calendar year during the Term of Employment, the Board (excluding the Executive) may, in its sole discretion, determine that a portion of the Base Salary shall be paid in the form of equity or equity-based compensation; provided that, such determination shall be made before January 1 of the calendar year during which such Base Salary will be earned, and such determination (and the portion of the Base Salary determined to be so paid in the form of equity or equity-based compensation) may not be revoked or otherwise modified at any time during such calendar year; provided, further, that any such equity or equity-based compensation shall be granted on January 1 of such calendar year or such later date during such calendar year as may be determined by the Board (excluding the Executive) in its sole discretion. The Board (excluding the Executive) shall act in good faith in determining the value of the portion of the Base Salary that will be paid in the form of equity or equity-based compensation. For calendar year 2016, the cash portion of the Base Salary shall be \$180,705. From and after January 1st of the year immediately following the year in which a Change of Control occurs, no portion of the Base Salary shall be paid in a form other than cash.

3.2. Annual Bonus. During the Term of Employment, the Executive shall be eligible to earn an annual performance bonus based on the achievement of the performance goals established by the Board or a committee thereof in its sole discretion, with an annual target bonus opportunity of 35% of the Base Salary and the potential to earn a higher bonus for above target performance, with the amount of any such bonus to be determined in the sole discretion of the Board or a committee thereof, in any case, excluding the Executive (the "**Annual Bonus.**"). Any Annual Bonus earned for any performance period may be paid in cash or any equity or equity-based awards (or any combination thereof), as determined in the sole discretion of the Board or a committee thereof, in any case, excluding the Executive, with such determination to be made before January 1 of the performance period to which such Annual Bonus relates (or such later date permitted under Section 409A (as defined below)). Any earned Annual Bonus that is payable in cash shall be paid in a lump sum, and any earned Annual Bonus that is payable in equity or equity-based awards shall be granted, in any case, by no later than the first March 15th to occur after the end of the applicable performance period. The Board (excluding the Executive) shall act in good faith in determining the value of the portion of any earned Annual Bonus that will be paid in the form of equity or equity-based awards. Except as set forth in Section 4.2, the Executive must be employed by the Company on the bonus payment date in order to receive an earned Annual Bonus with respect to any performance period. With respect to any performance period commencing in any year following the year in which a Change of Control occurs, no portion of the Annual Bonus shall be paid in a form other than cash.

3.3. Equity Grants. During the Term of Employment, the Executive shall be eligible for equity or equity-based awards that may be granted to the Executive at such times, in such amounts and in such manner as the Board (excluding the Executive) may determine in its sole discretion. Any such equity or equity-based awards shall be subject to the terms and conditions set forth in the applicable plan and award agreement.

3.4. Expense Reimbursement. During the Term of Employment, the Company shall reimburse the Executive's reasonable and necessary business expenses incurred in connection with performing the Executive's duties hereunder in accordance with its then-prevailing policies and procedures for expense reimbursement (which shall include appropriate itemization and substantiation of expenses incurred).

3.5. Benefit Plans; Vacation. During the Term of Employment, the Executive shall be entitled to participate in all broad-based employee benefit plans and programs maintained from time to time for the benefit of the Company's employees (e.g., medical, dental and disability benefits) to the extent that the Executive satisfies the eligibility requirements of such plans or programs (including, without limitation, minimum hours worked) and subject to applicable law and the terms and conditions of such plans or programs; provided, however, that the Company may amend, modify or terminate any such plans or programs at any time in its discretion. During the Term of Employment, the Executive shall be entitled to 200 hours of paid time off per calendar year (pro-rated for partial years), subject to the Company's paid time off policy, as in effect from time to time.

4. Termination; Restrictive Covenants. Upon the Termination Date, the Executive shall be deemed to have immediately resigned from any and all officer, director and other positions the Executive then holds with the Company and its Affiliates (and this Agreement shall constitute notice of resignation by the Executive without any further action by the Executive), and the Executive agrees to execute and deliver such further instruments as are requested by the Company in furtherance of the foregoing. Except as expressly provided in Section 4.2, all rights the Executive may have to compensation and employee benefits from the Company or its Affiliates shall terminate immediately upon the Termination Date.

4.1. General. The Company may terminate the Term of Employment and the Executive's employment at any time, with or without Cause or due to Disability, upon written notice to the Executive. The Executive may terminate the Term of Employment and the Executive's employment for Good Reason or for any other reason at any time upon not less than ninety (90) days' advance written notice to the Company; provided, that following its receipt of the Executive's notice of termination, the Company may elect to reduce the notice period and cause the Termination Date to occur earlier, and no such action by the Company shall entitle the Executive to notice pay, severance pay or benefits or pay in lieu of notice or lost wages or benefits. In addition, the Term of Employment and the Executive's employment with the Company shall terminate immediately upon the Executive's death.

4.2. Separation Payments.

4.2.1. General. Except as otherwise provided in this Section 4.2, in the event that the Executive's employment with the Company terminates for any reason, the Executive (or the Executive's estate or legal representative, as applicable) shall be entitled to receive only (i) the cash portion of the Base Salary earned but unpaid through the Termination Date, paid in accordance with the Company's normal payroll policies (or at such earlier time as required by applicable law), (ii) any accrued but unused vacation in accordance with the Company's policies and applicable law, (iii) any unreimbursed business expenses incurred prior to the Termination Date that are otherwise reimbursable, with such expenses to be reimbursed in accordance with the Company's expense reimbursement policies (as may be in effect from time to time), and (iv) any vested benefits earned by the Executive under any employee benefit plan of the Company or its Affiliates under which the Executive was participating immediately prior to the Termination Date, with such benefits to be provided in accordance with the terms of the applicable employee benefit plan (the items described in the foregoing clauses (i) through (iv), collectively, the "Accrued Benefits"). All other rights the Executive may have to compensation and employee benefits from the Company or its Affiliates, other than as set forth in Sections 4.2.2, 4.2.3 or 4.2.4, shall immediately terminate upon the Termination Date.

4.2.2. Death and Disability. In the event that the Executive's employment is terminated due to the Executive's death or by the Company due to Disability, in either case, during the Term of Employment, then in addition to the Accrued Benefits, and subject to Section 4.2.5, the Executive (or the Executive's estate or legal representative, as applicable) shall be entitled to receive: (i) the Annual Bonus earned in the fiscal year immediately preceding the fiscal year in which such termination occurred, to the extent that such Annual Bonus is unpaid as of the Termination Date, with such amount to be payable in cash and/or fully vested shares of the Company's common stock (as determined by the Company in its sole discretion) at the same time as if no such termination had occurred (the "Unpaid Prior Year Bonus"); (ii) the Annual Bonus for the year in which the Termination Date occurs, but multiplied by a fraction (A) the numerator of which is the number of days in the fiscal year that have transpired through the Termination Date and (B) the denominator of which is the number of days in such fiscal year (to be paid in cash and/or fully vested shares of the Company's common stock (as determined by the Company in its sole discretion) at the same time as if no such termination had occurred); (iii) if the Executive and his eligible dependents are eligible for, and timely elect COBRA continuation coverage, the Company shall reimburse the Executive (or the Executive's estate or legal representative, as applicable) for the COBRA premiums for the Executive and his eligible dependents under the Company's medical, dental and vision benefit plans for a period of 12 months following the Termination Date (the "COBRA Benefit"); provided, however, that notwithstanding the foregoing, the COBRA Benefit shall not be provided to the extent that it would result in any fine, penalty or tax on the Company or any of its Affiliates (under Section 105(h) of the Code or the Patient Protection and Affordable Care Act of 2010, or otherwise); provided further, that the COBRA Benefit shall cease earlier if the Executive or his dependents become eligible for health coverage under the health plan of another employer; and (iv) to the extent the following will not result in a violation of Section 409A, with respect to each equity award received by Executive from the Company or any of its direct or indirect parent companies that is outstanding as of the Termination Date, accelerated vesting immediately upon the Termination Date of, (I) with respect to any such equity award received in payment of Base Salary or an Annual Bonus, 100% of such equity award and, (II) with respect to any equity award not described in clause (I), the greater of (x) the portion of the unvested equity award that would have become vested within 12 months after the Termination Date had the Executive remained employed by the Company during such 12-month period (without regard for the vesting schedule set forth in any applicable plan or agreement governing such equity award) or (y) the portion of the unvested equity award that is subject to accelerated vesting (if any) upon such termination under the applicable equity plan or award agreement; provided, however, that any equity awards that are subject to the satisfaction of performance goals shall be deemed earned at not less than target performance; and provided, further, that, with respect to any equity award that is in the form of a stock option or stock appreciation right, the option or stock appreciation right shall remain outstanding and exercisable for 12 months following the Termination Date or, if longer, such period following the Termination Date as provided under the applicable equity plan or award agreement (but in no event beyond the expiration date of the applicable option or stock appreciation right). All other rights the Executive may have to compensation and employee benefits from the Company or its Affiliates, other than as set forth in this Section 4.2.2, shall immediately terminate upon the Termination Date.

4.2.3. Termination Without Cause or for Good Reason – Not In Connection with a Change of Control. If, during the Term of Employment, the Executive's employment is terminated by the Company without Cause (and not due to death or Disability) or by Executive for Good Reason, in either case, and such termination is not covered by Section 4.2.4, then the Executive shall be entitled to receive the Accrued Benefits and, subject to Section 4.2.5: (i) the Unpaid Prior Year Bonus, with such amount to be payable in cash and/or fully vested shares of the Company's common stock (as determined by the Company in its sole discretion) at the same time as if no such termination had occurred; (ii) the Annual Bonus for the year in which the Termination Date occurs, but multiplied by a fraction (A) the numerator of which is the number of days in the fiscal year that have transpired through the Termination Date and (B) the denominator of which is the number of days in such fiscal year (to be paid in cash and/or fully vested shares of the Company's common stock (as determined by the Company in its sole discretion) at the same time as if no such termination had occurred); (iii) continuation of the Base Salary as of the Termination Date for nine months following the Termination Date, with all portions of such Base Salary to be paid in cash in equal installments in accordance with the Company's normal payroll policies, with the first such payment to be made on the 60th day following the Termination Date and to include a catch-up covering any payroll dates between the Termination Date and the date of the first payment; and (iv) the COBRA Benefit for a period of 12 months following the Termination Date; provided, however, that notwithstanding the foregoing, the COBRA Benefit shall not be provided to the extent that it would result in any fine, penalty or tax on the Company or any of its Affiliates (under Section 105(h) of the Code or the Patient Protection and Affordable Care Act of 2010, or otherwise); provided further, that the COBRA Benefit shall cease earlier if the Executive (or his dependents) become eligible for health coverage under the health plan of another employer. All other rights the Executive may have to compensation and employee benefits from the Company or its Affiliates, other than as set forth in this Section 4.2.3, shall immediately terminate upon the Termination Date.

4.2.4. Termination Without Cause or for Good Reason – In Connection with a Change of Control. If, during the Term of Employment, the Executive's employment is terminated by the Company without Cause (and not due to death or Disability) or by Executive for Good Reason, in either case, (A) upon or within 24 months following a Change of Control or (B) within 60 days prior to such Change of Control, then the Executive shall be entitled to receive the Accrued Benefits and, subject to Section 4.2.5: (i) the Unpaid Prior Year Bonus, with such amount to be payable in cash and/or fully vested shares of the Company's common stock (as determined by the Company in its sole discretion) at the same time as if no such termination had occurred; (ii) the Annual Bonus for the year in which the Termination Date occurs, but multiplied by a fraction (x) the numerator of which is the number of days in the fiscal year that have transpired through the Termination Date and (y) the denominator of which is the number of days in such fiscal year (to be paid in cash and/or fully vested shares of the Company's common stock (as determined by the Company in its sole discretion) at the same time as if no such termination had occurred); (iii) a lump sum payment equal to 1.5 times the sum of Executive's Base Salary (at the highest rate in effect during the 24 month period commencing on the date of such Change of Control) and the higher of Executive's target Annual Bonus opportunity and the Annual Bonus paid to Executive with respect to the fiscal year immediately preceding the fiscal year in which such termination occurred, with such payment to be paid in cash on the first payroll date after the effective date of the release (as described in Section 4.2.5) and in all events no later than 70 days after such termination; and (iv) a payment equal to 18 times the monthly COBRA premium for Executive and his eligible dependents (at the rate in effect for Executive's coverage at the time of his termination, regardless of whether Executive elects COBRA coverage), with one-third of such payment to be paid in cash on the first payroll date after the effective date of the release (as described in Section 4.2.5) and in all events no later than 70 days after such termination, and with the remaining two-thirds to be paid according to the same schedule as the COBRA Benefit is provided in clause (iv) of Section 4.2.3 (i.e., in installments over 12 months following the Termination Date). Notwithstanding the foregoing, in the event that a termination described in clause (B) of this Section 4.2.4 occurs, then the payments described in clauses (iii) and (iv) of this Section 4.2.4 shall be paid over the same nine-month period (or the same 12-month period, as applicable) and in the same manner as set forth in clauses (iii) and (iv) of Section 4.2.3, respectively, rather than being paid in a lump sum. In addition, if (and only if), during the Term of Employment, the Executive's employment is terminated by the Company without Cause (and not due to death or Disability) or by Executive for Good Reason, in either case, upon or within 24 months following a Change of Control, then, to the extent the following will not result in a violation of Section 409A, the Executive shall be entitled to, in addition to the Accrued Benefits and the payments set forth in the foregoing clauses (i) through (iv), and subject to Section 4.2.5, immediate and full accelerated vesting of all equity awards received by Executive from the Company or any of its direct or indirect parent companies that are outstanding as of the Termination Date without regard for the vesting schedule set forth in any applicable plan or agreement governing such equity awards; provided that, any equity awards that are subject to the satisfaction of performance goals shall be deemed earned at not less than target performance; and provided, further, that, with respect to any equity award that is in the form of a stock option or stock appreciation right, the option or stock appreciation right shall remain outstanding and exercisable for 24 months following the Termination Date (but in no event beyond the expiration date of the applicable option or stock appreciation right). All other rights the Executive may have to compensation and employee benefits from the Company or its Affiliates, other than as set forth in this Section 4.2.4, shall immediately terminate upon the Termination Date.

4.2.5. Release Requirement. Payment and provision of the benefits set forth in Sections 4.2.2, 4.2.3 and 4.2.4 (other than the Accrued Benefits) is subject to the Executive's (or, as applicable, the Executive's estate's or legal representative's) execution of a general release of claims and covenant not to sue in form and substance satisfactory to the Company, such that such release becomes effective, with all revocation periods having expired unexercised, within sixty (60) days after the Termination Date. Notwithstanding the foregoing, if such sixty (60) day period ends in a calendar year after the calendar year in which the Executive's employment terminates, then to the extent required by Section 409A, any severance payment set forth in Sections 4.2.2, 4.2.3 or 4.2.4 (other than the Accrued Benefits) that would have been made during the calendar year in which the Executive's employment terminates instead shall be withheld and paid on the first payroll date in the calendar year after the calendar year in which the Executive's employment terminates, with all remaining payments to be made as if no such delay had occurred.

4.3. Violation of Restrictive Covenants. Without limiting the remedies provided to the Company and its Affiliates as set forth in this Article 4, upon the Executive's breach of any of the Restrictive Covenants (as defined below), other than any immaterial and unintentional breach by the Executive of the confidentiality obligations set forth in Section 4.11, the Company will have no obligation to continue to pay or provide any of the compensation or benefits under Section 4.2 (other than the Accrued Benefits) and the Executive shall repay to the Company any amounts paid under Section 4.2 (other than the Accrued Benefits) after such breach occurred.

4.4. Restrictive Covenants. As an inducement and as essential consideration for the Company to enter into this Agreement, and in exchange for other good and valuable consideration, the Executive hereby agrees to the restrictive covenants contained in Sections 4.5 through 4.17 (the "Restrictive Covenants"). The Company and the Executive agree that the Restrictive Covenants are essential and narrowly tailored to preserve the goodwill of the business of the Company and its Affiliates, to maintain the confidential and trade secret information of the Company and its Affiliates, and to protect other legitimate business interests of the Company and its Affiliates, and that the Company would not have entered into this Agreement without the Executive's agreement to the Restrictive Covenants. For purposes of the Restrictive Covenants, each reference to "Company," "Company Group" and "Affiliate," shall also refer to the predecessors and successors of the Company, the members of the Company Group and any of their Affiliates (as the case may be).

4.5. Non-Competition. During the period commencing on the Effective Date and ending 18 months after the Termination Date, regardless of the reason for Executive's termination of employment, the Executive shall not, in any state of the United States where the Company conducts business as of the Termination Date, engage in, or own, manage, operate or control, or participate in the ownership, management, operation or control of any business or entity that sells or provides products or services competitive with the products or services sold or provided by any member of the Company Group. Notwithstanding the foregoing, nothing in this Section 4.5 shall prevent the Executive from owning, as a passive investor, up to two percent (2%) of the securities of any entity that are publicly traded on a national securities exchange. For the avoidance of doubt, nothing in this Section 4.5 prevents the Executive from working in the pharmaceutical industry as long as such positions and activities are not competitive with the business of the Company Group.

4.6. Customer Non-Solicitation. During the period commencing on the Effective Date and ending 18 months after the Termination Date, regardless of the reason for Executive's termination of employment, the Executive shall not (except on the Company's behalf during the Executive's employment with the Company), for purposes of providing products or services that are competitive with those provided by any member of the Company Group, on the Executive's own behalf or on behalf of any other Person, solicit any customer or client of any member of the Company Group with whom the Executive had contact, solicited, or served within the twelve (12) months prior to the Termination Date.

4.7. Customer Non-Acceptance. During the period commencing on the Effective Date and ending 18 months after the Termination Date, regardless of the reason for Executive's termination of employment, the Executive shall not (except on the Company's behalf during the Executive's employment with the Company), for purposes of providing products or services that are competitive with those provided by any member of the Company Group, on the Executive's own behalf or on behalf of any other Person, accept business from any customer or client of any member of the Company Group with whom the Executive had contact, solicited, or served within the twelve (12) months prior to the Termination Date.

4.8. Employee and Independent Contractor Non-Solicitation. During the period commencing on the Effective Date and ending 18 months after the Termination Date, regardless of the reason for Executive's termination of employment, the Executive shall not (except on the Company's behalf during the Term of Employment), on the Executive's own behalf or on behalf of any other Person, solicit for employment or engagement any individual who (A) is employed by, or an independent contractor of, any member of the Company Group at the time of such solicitation or (B) was employed by, or an independent contractor of, any member of the Company Group within 12 months prior to such solicitation.

4.9. Employee and Independent Contractor Non-Acceptance. During the period commencing on the Effective Date and ending 18 months after the Termination Date, regardless of the reason for Executive's termination of employment, the Executive shall not (except on the Company's behalf during the Term of Employment), on the Executive's own behalf or on behalf of any other Person, employ or engage any individual who (A) is employed by, or an independent contractor of, any member of the Company Group at the time of such employment or engagement or (B) was employed by, or an independent contractor of, any member of the Company Group within twelve (12) months prior to such employment or engagement.

4.10. Non-Disparagement. During the Term of Employment and at all times thereafter, the Executive shall not, directly or through any other Person make any public or private statements (whether orally, in writing, via electronic transmission, or otherwise) that disparage, denigrate or malign the Company, any of the Company's Affiliates or any of their respective businesses, products, services, activities, operations, affairs, reputations or prospects; or any of their respective officers, employees, directors, partners (general and limited), agents, members or shareholders. For purposes of clarification, and not limitation, a statement shall be deemed to disparage, denigrate or malign a Person if such statement could be reasonably construed to adversely affect the opinion any other Person may have or form of such first Person. The foregoing limitations shall not be violated by truthful statements made by the Executive (i) to any governmental authority or (ii) which are in response to legal process, required governmental testimony or filings, or administrative or arbitral proceedings (including, without limitation, depositions in connection with such proceedings).

4.11. Confidentiality; Return of Property. During the Term of Employment and at all times thereafter, the Executive shall not, without the prior express written consent of the Company, directly or indirectly, use on the Executive's behalf or on behalf of any other Person, or divulge, disclose or make available or accessible to any Person, any Confidential Information, other than when required to do so in good faith to perform the Executive's duties and responsibilities hereunder while employed by any member of the Company Group, when required to do so by a lawful order of a court of competent jurisdiction, any governmental authority or agency, or any recognized subpoena power, or in connection with reporting possible violations of federal law or regulation to any governmental agency or entity, or making other disclosures that are protected under the whistleblower provisions of federal law or regulation. In the event that the Executive becomes legally compelled (by oral questions, interrogatories, request for information or documents, subpoena, criminal or civil investigative demand or similar process) to disclose any Confidential Information, then prior to such disclosure, the Executive will provide the Board with prompt written notice so that the Company may seek (with the Executive's cooperation) a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event that such protective order or other remedy is not obtained, then the Executive will furnish only that portion of the Confidential Information which is legally required, and will cooperate with the Company in the Company's efforts to obtain reliable assurance that confidential treatment will be accorded to the Confidential Information. In addition, the Executive shall not create any derivative work or other product based on or resulting from any Confidential Information (except in the good faith performance of the Executive's duties under this Agreement while employed by any member of the Company Group). The Executive shall also proffer to the Board's designee, no later than the Termination Date (or upon the earlier request of the Company), and without retaining any copies, notes or excerpts thereof, all property of the Company and its Affiliates, including, without limitation, memoranda, computer disks or other media, computer programs, diaries, notes, records, data, customer or client lists, marketing plans and strategies, and any other documents consisting of or containing Confidential Information, that are in the Executive's actual or constructive possession or which are subject to the Executive's control at such time. To the extent the Executive has retained any such property or Confidential Information on any electronic or computer equipment belonging to the Executive or under the Executive's control, the Executive agrees to so advise Company and to follow Company's instructions in permanently deleting all such property or Confidential Information and all copies. Notwithstanding the foregoing, in accordance with the Defend Trade Secrets Act of 2016, the Executive shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (I) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and (II) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

4.12. Ownership of Inventions. The Executive acknowledges and agrees that all Company Inventions (including all intellectual property rights arising therein or thereto, all rights of priority relating to patents, and all claims for past, present and future infringement, misappropriation relating thereto), and all Confidential Information, hereby are and shall be the sole and exclusive property of the Company (collectively, the "Company IP"). The Executive further acknowledges and agrees that any rights arising in the Executive in any Invention Invented by the Executive, whether alone or jointly with others, during the twelve (12) months following the Termination Date and relating in any way to work performed by the Executive for any member of the Company Group during the Executive's employment with or service for any member of the Company Group ("Post-employment Inventions"), shall hereby be deemed to be Company Inventions and the sole and exclusive property of the Company; provided, however, that the Board (excluding the Executive) in its sole discretion may elect to compensate the Executive for any Post-employment Inventions. For consideration acknowledged and received, the Executive hereby irrevocably assigns, conveys and sets over to the Company all of the Executive's right, title and interest in and to all Company IP. The Executive acknowledges and agrees that the compensation received by the Executive for employment or services provided to the Company is adequate consideration for the foregoing assignment. The Executive further agrees to disclose in writing to the Board any Company Inventions (including, without limitation, all Post-employment Inventions), promptly following their conception or reduction to practice. Such disclosure shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art of which the Company Invention pertains, a clear understanding of the nature, purpose, operations, and other characteristics of the Company Invention. The Executive agrees to execute and deliver such deeds of assignment or other documents of conveyance and transfer as the Company may request to confirm in the Company or its designee the ownership of the Company Inventions, without compensation beyond that provided in this Agreement. The Executive further agrees, upon the request of the Company and at its expense, that the Executive will execute any other instrument and document necessary or desirable in applying for and obtaining patents in the United States and in any foreign country with respect to any Company Invention. The Executive further agrees, whether or not the Executive is then an employee or other service provider of any member of the Company Group, upon request of the Company, to provide reasonable assistance with respect to the perfection, recordation or other documentation of the assignment of Company IP hereunder, and the enforcement of the Company's rights in any Company IP, and to cooperate to the extent and in the manner reasonably requested by the Company in any litigation or other claim or proceeding (including, without limitation, the prosecution or defense of any claim involving a patent) involving any Company IP covered by this Agreement, without further compensation but all reasonable out-of-pocket expenses incurred by the Executive in satisfying the requirements of this Section 4.12 shall be paid by the Company or its designee. The Executive shall not, on or after the date of this Agreement, directly or indirectly challenge the validity or enforceability of the Company's ownership of, or rights with respect to, any Company IP, including, without limitation, any patent issued on, or patent application filed in respect of, any Company Invention.

4.13. Works for Hire. The Executive also acknowledges and agrees that all works of authorship, in any format or medium, and whether published or unpublished, created wholly or in part by the Executive, whether alone or jointly with others, (i) in the course of, in connection with, or as a result of the Executive's employment or other service with any member of the Company Group (whether before or after the Effective Date), (ii) at the direction or request of any member of the Company Group, or (iii) through the use of, or that is related to, facilities, equipment, Confidential Information, other Company Inventions, intellectual property or other resources of any member of the Company Group, whether or not during the Executive's work hours ("Works"), are works made for hire as defined under United States copyright law, and that the Works (and all copyrights arising in the Works) are owned exclusively by the Company and all rights therein will automatically vest in the Company without the need for any further action by any party. To the extent any such Works are not deemed to be works made for hire, for consideration acknowledged and received, the Executive hereby waives any "moral rights" in such Works and the Executive hereby irrevocably assigns, transfers, conveys and sets over to the Company or its designee, without compensation beyond that provided in this Agreement, all right, title and interest in and to such Works, including without limitation all rights of copyright arising therein or thereto, and further agrees to execute such assignments or other deeds of conveyance and transfer as the Company may request to vest in the Company or its designee all right, title and interest in and to such Works, including all rights of copyright arising in or related to the Works.

4.14. Cooperation. During and after the Term of Employment, the Executive agrees to cooperate with the Company Group in any internal investigation, any administrative, regulatory, or judicial proceeding or any dispute with a third party concerning issues about which the Executive has knowledge or that may relate to the Executive or the Executive's employment with the Company. The Executive's obligation to cooperate hereunder includes, without limitation, being available to the Company Group upon reasonable notice for interviews and factual investigations, appearing in any forum at the Company Group's request to give testimony (without requiring service of a subpoena or other legal process), volunteering to the Company Group pertinent information, and turning over to the Company Group all relevant documents which are or may come into the Executive's possession. The Company shall promptly reimburse the Executive for the reasonable out of pocket expenses incurred by the Executive in connection with such cooperation.

4.15. Injunctive Relief. The Executive acknowledges and agrees that the Company and its Affiliates will have no adequate remedy at law and would be irreparably harmed if the Executive breaches or threatens to breach any of the Restrictive Covenants. The Executive agrees that the Company and its Affiliates shall be entitled to equitable and/or injunctive relief to prevent any breach or threatened breach of any of the Restrictive Covenants, and to specific performance of each of the terms thereof, in each case, in addition to any other legal or equitable remedies that the Company and its Affiliates may have, as well as the costs and reasonable attorneys' fees it/they incur in enforcing any of the Restrictive Covenants. The Executive further agrees that (i) any breach or claimed breach of the provisions set forth in this Agreement by, or any other claim the Executive may have against, the Company or any of its Affiliates will not be a defense to enforcement of any Restrictive Covenant and (ii) the circumstances of the Executive's termination of employment with the Company will have no impact on the Executive's obligations to comply with any Restrictive Covenant. The Restrictive Covenants are intended for the benefit of the Company and each of its Affiliates. Each Affiliate of the Company is an intended third party beneficiary of the Restrictive Covenants, and each Affiliate of the Company, as well as any successor or assign of the Company or such Affiliate, may enforce the Restrictive Covenants. The Executive further agrees that the Restrictive Covenants are in addition to, and not in lieu of, any non-competition, non-solicitation, protection of confidential information or intellectual property, or other similar covenants in favor of the Company or any of its Affiliates by which the Executive may be bound.

4.16. Tolling During Periods of Breach. The parties hereto agree and intend that the Restrictive Covenants (to the extent not perpetual) be tolled during any period that the Executive is in breach of any such Restrictive Covenant, with such tolling to cease with respect to a Restrictive Covenant once the Executive is in compliance with such Restrictive Covenant, so that the Company and its Affiliates are provided with the full benefit of the restrictive periods set forth herein.

4.17. Notification of New Employer. In the event that the Executive is employed or otherwise engaged by any other Person following the Termination Date, the Executive agrees to notify, and consents to the notification by Company and its Affiliates of, such Person of the Restrictive Covenants.

5. Miscellaneous.

5.1. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, applied without reference to principles of conflicts of law.

5.2. Mediation. Any controversy, dispute or claim arising out of or relating to this Agreement, Executive's employment or service with any member of the Company Group or the termination thereof shall, if not settled by direct negotiation between the parties, be subject to non-binding mediation under the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") as in effect on the date of the notice of demand for mediation. Any demand for mediation by either party shall be made in writing and served upon the other party and shall set forth with reasonable specificity the basis of the dispute and the relief sought. Any mediation hereunder shall be conducted before an independent mediator mutually selected by the parties. If the parties are unable to agree to a mediator within ten (10) days after the receipt of a demand for mediation by either party, the mediator will be chosen by alternatively striking from a list of five mediators obtained by the Company from AAA, and the Executive shall have the first strike. The mediation hearing will occur at a time and place convenient to the parties in Charlottesville, Virginia. Notwithstanding the foregoing, any claims under Section 4.15 are exempt from this Section 5.2 and may be brought in any court of competent jurisdiction without mediation.

5.3. Venue; WAIVER OF JURY TRIAL. In the event that any controversy, dispute or claim arising out of or relating to this Agreement, Executive's employment or service with any member of the Company Group or the termination thereof is not settled through mediation pursuant to Section 5.2, both the Executive and the Company agree to appear before and submit exclusively to the jurisdiction of the federal courts located in Charlottesville, Virginia with respect to such controversy, dispute or claim (or if such controversy, dispute or claim may not be brought in federal court, the state courts located in Charlottesville, Virginia). Both the Executive and the Company also agree to waive, to the fullest possible extent, the defense of an inconvenient forum or lack of jurisdiction. **THE COMPANY AND THE EXECUTIVE HEREBY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY LITIGATION IN ANY COURT WITH RESPECT TO, IN CONNECTION WITH, OR ARISING OUT OF THE EXECUTIVE'S EMPLOYMENT BY, OR SERVICE WITH, ANY MEMBER OF THE COMPANY GROUP OR THE TERMINATION THEREOF, OR THIS AGREEMENT OR THE VALIDITY, PROTECTION, INTERPRETATION, COLLECTION OR ENFORCEMENT THEREOF (WHETHER ARISING IN CONTRACT, EQUITY, TORT OR OTHERWISE).**

5.4. Amendments. This Agreement may not be amended or modified otherwise than by a written agreement executed by the parties hereto or their respective successors and legal representatives.

5.5. **Notices.** All notices and other communications hereunder shall be in writing, and shall be given by hand-delivery to the other party, by reputable overnight courier, or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

To the Company:

Diffusion Pharmaceuticals Inc.
2020 Avon Court #4
Charlottesville, VA 22902
Attention: Thomas E. Byrne

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

Dechert LLP
1095 Avenue of the Americas.
New York, NY 10036
Attention: David S. Rosenthal

To the Executive:

at the residence address most recently filed with the Company;

or to such other address as any party shall have furnished to the other in writing in accordance herewith. All such notices shall be deemed to have been duly given: (i) when delivered personally to the recipient, (ii) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid); or (iii) four (4) business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid.

5.6. **Clawback.** The Executive expressly acknowledges and agrees that he is subject to any clawback policy of the Company as in effect from time to time, and any compensation or benefits provided under this Agreement (whether payable in cash or equity or equity-based awards) may be reduced or be subject to recoupment pursuant to any such policy as in effect from time to time.

5.7. **Withholding.** The Company may withhold from any amounts payable under this Agreement such federal, state or local income taxes as are required to be withheld pursuant to any applicable law or regulation.

5.8. **Code Section 409A Compliance.**

5.8.1. The provisions of this Agreement are intended to comply with Section 409A of the Code and any final regulations and guidance promulgated thereunder ("Section 409A") or an exemption thereunder and shall be construed in a manner consistent with the requirements for avoiding taxes or penalties under Section 409A. The Company and Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment or provision of benefit to Executive under Section 409A.

5.8.2. To the extent that Executive will be reimbursed for costs and expenses or in-kind benefits, except as otherwise permitted by Section 409A, (a) the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit, (b) the amount of expenses eligible for reimbursement, or in-kind benefits, *provided* during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year; *provided* that the foregoing clause (b) shall not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Code solely because such expenses are subject to a limit related to the period the arrangement is in effect and (c) such payments shall be made on or before the last day of the taxable year following the taxable year in which Executive incurred the expense.

5.8.3. A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits upon or following a termination of employment unless such termination constitutes a “Separation from Service” within the meaning of Section 409A and, for purposes of any such provision of this Agreement references to a “termination,” “termination of employment” or like terms shall mean Separation from Service.

5.8.4. Any payments under this Agreement that may be excluded from Section 409A either as separation pay due to an involuntary separation from service or as a short-term deferral shall be excluded from Section 409A to the maximum extent possible. Each installment payable hereunder shall constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b), including Treasury Regulation Section 1.409A-2(b)(2)(iii). Each payment that is made within the terms of the “short-term deferral” rule set forth in Treasury Regulation Section 1.409A-1(b)(4) is intended to meet the “short-term deferral” rule. Each other payment is intended to be a payment upon an involuntary termination from service and payable pursuant to Treasury Regulation Section 1.409A-1(b)(9)(iii), et. seq., to the maximum extent permitted by that regulation, with any amount that is not exempt from Section 409A being subject to Section 409A.

5.8.5. Notwithstanding anything to the contrary in this Agreement, if Executive is a “specified employee” within the meaning of Section 409A at the time of Executive’s termination, then only that portion of the severance and benefits payable to Executive pursuant to this Agreement, if any, and any other severance payments or separation benefits which may be considered deferred compensation under Section 409A that is payable on account of the Executive’s termination (other than by reason of death) (together, the “Deferred Compensation Separation Benefits”) that are due to Executive on or within the six (6) month period following Executive’s termination will accrue during such six (6) month period and will become payable in one lump sum cash payment on the date that is six (6) months and one (1) day following the date of Executive’s termination of employment. All subsequent Deferred Compensation Separation Benefits, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following termination but prior to the six (6) month anniversary of Executive’s termination date, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive’s death (but not earlier than such payment would have been made absent such death) and all other Deferred Compensation Separation Benefits will be payable in accordance with the payment schedule applicable to each payment or benefit.

5.8.6. Notwithstanding anything herein to the contrary, neither the Company nor any of its Affiliates shall have any liability to the Executive or to any other Person if the payments and benefits provided in this Agreement that are intended to be exempt from or compliant with Section 409A are not so exempt or compliant.

5.9. Excess Parachute Payments under Code Section 280G. Notwithstanding any other provisions of this Agreement, if any “payments” (including, without limitation, any benefits or transfers of property or the acceleration of the vesting of any benefits) in the nature of compensation under any arrangement that is considered contingent on a Change of Control for purposes of Section 280G of the Code, together with any other payments that the Executive has the right to receive from the Company or any corporation that is a member of an “affiliated group” (as defined in Section 1504(a) of the Code without regard to Section 1504(b) of the Code) of which the Company is a member or from any other Person, would constitute a “parachute payment” (as defined in Section 280G(b)(2) of the Code), such “payments” may, at the Executive’s sole election, be reduced to the largest amount that will result in no portion of such “payments” being subject to the excise tax imposed by Section 4999 of the Code. Any such reduction in “payments” shall be applied first against the latest scheduled cash payments; then current cash payments; then any equity or equity derivatives that are included under Section 280G of the Code at full value rather than accelerated value (with the highest value reduced first); then any equity or equity derivatives included under Section 280G of the Code at an accelerated value (and not at full value), with the highest value reduced first (as such values are determined under Treasury Regulation Section 1.280G-1, Q&A 24); and finally any other non-cash benefits will be reduced (in the order of latest scheduled payments to earliest scheduled payments). All calculations hereunder shall be performed by a nationally recognized independent accounting firm selected by the Company, with the full cost of such firm being borne by the Company. Any determinations made by such firm shall be final and binding on the Executive and the Company.

5.10. Severability. The terms and provisions of this Agreement are intended to be separate and divisible provisions and if, for any reason, any one or more of them is held to be invalid or unenforceable, neither the validity nor the enforceability of any other provision of this Agreement shall thereby be affected. It is the intention of the parties to this Agreement that the Restrictive Covenants be reasonable in duration, geographic scope and in all other respects. The Executive agrees that the Restrictive Covenants, including, without limitation, the duration, geographic scope and activity restrictions of each restriction, are reasonable in light of the Executive’s senior position. However, if for any reason any court of competent jurisdiction shall find any provisions of the Restrictive Covenants unreasonable in duration or geographic scope or otherwise, it is the intention of the parties that the restrictions and prohibitions contained therein shall be modified by the court to be effective to the fullest extent allowed under applicable law in such jurisdiction.

5.11. Captions. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect.

5.12. Counterparts. This Agreement may be executed in counterparts and delivered by facsimile transmission or electronic transmission in “portable document format,” each of which shall be an original and which taken together shall constitute one and the same document.

5.13. Entire Agreement. This Agreement contains the entire agreement concerning the subject matter hereof and supersedes all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, between the parties and their Affiliates relating to such subject matter (including any term sheet or offer letter)

5.14. Survivorship. The provisions of Article 1, Article 5, Section 2.1 and Sections 4.4 through 4.17 shall survive the termination of the Executive’s employment with the Company and this Agreement in accordance with their terms.

5.15. Successors and Assigns. The Company may assign, without the Executive’s consent, its rights and/or delegate its obligations under this Agreement to any successor of the Company, whether by operation of law, agreement or otherwise (including, without limitation, any Person who acquires all or a substantial portion of the business of the Company Group (whether direct or indirect and whether structured as a stock sale, asset sale, merger, recapitalization, consolidation or other transaction)) and, in connection with any such delegation of its obligations hereunder (but only so long as such assignee or delegee has consented in writing to be bound by the obligations hereunder) shall be released from such obligations hereunder. This Agreement may not be assigned by the Executive. Except as otherwise provided herein, this Agreement shall bind and inure to the benefit of and be enforceable by the Executive, the Company and their respective successors and permitted assigns.

[Signature page follows]

IN WITNESS WHEREOF, the Executive has hereunto set the Executive's hand and the Company has caused this Agreement to be executed in its name on its behalf, all as of the day and year first above written.

THE COMPANY:

Diffusion Pharmaceuticals Inc.

By: /s/ David G. Kalergis

Name: David G. Kalergis

Title: Chief Executive Officer

EXECUTIVE:

/s/ John L. Gainer

John L. Gainer

DIFFUSION PHARMACEUTICALS INC.
CERTIFICATION OF CEO PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002
CERTIFICATION

I, David G. Kalergis, certify that:

1. I have reviewed this Amendment No. 1 to this annual report on Form 10-K of Diffusion 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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer 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: April 28, 2017

/s/ David G. Kalergis

David G. Kalergis
Chairman and Chief Executive Officer
(Principal Executive Officer)

DIFFUSION PHARMACEUTICALS INC.
CERTIFICATION OF PFO PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002
CERTIFICATION

I, Ben L. Shealy, certify that:

1. I have reviewed this Amendment No. 1 to this annual report on Form 10-K of Diffusion 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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer 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: April 28, 2017

/s/ Ben L. Shealy

Ben L. Shealy

Senior Vice President – Finance, Treasurer and Secretary
(Principal Financial Officer)

**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 Amendment No. 1 to this Annual Report on Form 10-K of Diffusion Pharmaceuticals Inc. (the "Company") for the period ended December 31, 2016 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, David G. Kalergis and Ben L. Shealy, Chairman and Chief Executive Officer and Senior Vice President – Finance, Treasurer and Secretary, respectively, 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, that to our knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

April 28, 2017

/s/ David G. Kalergis

David G. Kalergis
Chairman and Chief Executive Officer

/s/ Ben L. Shealy

Ben L. Shealy
Senior Vice President – Finance, Treasurer and Secretary