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

DIVISION OF
CORPORATION FINANCE

March 1, 2023

Anthony Pergola
Lowenstein Sandler LLP

Re: Celldex Therapeutics, Inc. (the "Company")
Incoming letter dated February 28, 2023

Dear Anthony Pergola:

This letter is in regard to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by James McRitchie (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the Proponent has withdrawn the Proposal and that the Company therefore withdraws its February 3, 2023 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter will be made available on our website at https://www.sec.gov/corpfin/2022-2023-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: James McRitchie

Lowenstein Sandler

February 3, 2023

BY EMAIL (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: Celldex Therapeutics, Inc. – Section 14(a), Rule 14a-8 Stockholder Proposal Submitted by James McRitchie

Ladies and Gentlemen:

This letter (the "**Letter**") is to inform you that our client, Celldex Therapeutics, Inc., a Delaware corporation ("**Celldex**" or the "**Company**"), intends to omit from its proxy statement and form of proxy (collectively, the "**2023 Proxy Materials**") for its 2023 Annual Meeting of Stockholders (the "**2023 Annual Meeting**") a stockholder proposal (the "**Proposal**") and statements in support thereof (the "**Supporting Statement**") received by the Company on December 4, 2022 from James McRitchie (the "**Proponent**"). A copy of the Proposal, the Supporting Statement and all related correspondences from the Proponent are attached hereto as Exhibit A.

Pursuant to Rule 14a-8(j) of the Exchange Act of 1934, as amended (the "**Exchange Act**"), we have emailed this Letter to the Securities and Exchange Commission (the "**Commission**") at shareholderproposals@sec.gov no later than eighty (80) calendar days before the date the Company intends to file its definitive 2023 Proxy Materials with the Commission and have concurrently sent copies of this correspondence to the Proponent as notice of the Company's intent to exclude the Proposal from the 2023 Proxy Materials.

Rule 14a-8(k) of the Exchange Act and Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("**SLB 14D**") provide that stockholder proponents are required to send companies a copy of any correspondence that the stockholder proponents elect to submit to the Commission or the staff of the Division of Corporate Finance (the "**Staff**"). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

I. The Proposal

The text of the Proposal is set forth below.

"**Resolved**

James McRitchie and other shareholders request that directors of Celldex Therapeutics Inc. ("Company") amend its bylaws to include the following language:

Shareholder approval is required for any advance notice bylaw amendments that:

1. require the nomination of candidates more than 90 days before the annual meeting,

2. impose new disclosure requirements for director nominees, including disclosure related to past and future plans, or

3. require nominating shareholders to disclose limited partners or business associates, except to the extent such investors own more than 5% of the Company's shares."

II. Bases for Exclusion

On behalf of the Company, we hereby respectfully request that the Staff concur with Celldex's view that it may exclude the Proposal from the 2023 Proxy Materials pursuant to:

1. Rule 14a-8(i)(2) because implementation of the Proposal would cause the Company to violate Delaware law (please see Section III);

2. Rule 14a-8(i)(1) because the Proposal is not a proper subject for action by the Company's stockholders under Delaware law (please see Section IV);

3. Rule 14a-8(i)(6) because the Company lacks the power or authority to implement the Proposal (please see Section V); and

4. Rule 14a-8(i)(3) because the Proposal is impermissibly vague and indefinite as to be inherently misleading (please see Section VI).

III. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(2) Because Implementation of the Proposal Would Cause the Company to Violate State Law.

Rule 14a-8(i)(2) allows the exclusion of a proposal if implementation of such proposal would "cause the company to violate any state, federal, or foreign law to which it is subject." *See, The Goldman Sachs Group, Inc.* (avail. Feb. 11, 2016)*; Kimberly-Clark Corp.* (avail. Dec. 18,

2009); *Bank of America Corp.* (avail. Feb. 11, 2009). For the reasons set forth in the legal opinion provided by Morris, Nichols, Arsht & Tunnell LLP regarding Delaware law (the "**Delaware Law Opinion**"), the Company believes that the Proposal is excludable under Rule 14a-8(i)(2) because implementation of the Proposal would cause the Company to violate Delaware law. A copy of the Delaware Law Opinion is attached to this Letter as Exhibit B.

The Staff has previously concurred in the exclusion of stockholder proposals where in the opinion of counsel the proposal would, if implemented, be inconsistent with the company's certificate of incorporation, thereby causing the company to violate the Delaware General Corporation Law (the "**DGCL**"), specifically Section 109(b) of the DGCL. For example, in *Advanced Photonix, Inc.* (avail. May 15, 2014), Advanced Photonix received a proposal calling for the adoption of a proxy access bylaw that could only be amended by a vote of its stockholders. In connection with its no-action request to the Staff, Advanced Photonix obtained the opinion of Delaware counsel, whose legal opinion asserted that the company's certificate of incorporation did "not limit in any respect the [b]oard's power to amend the By-Laws, and therefore, the [c]ertificate mandate[d] that any part of the By-Laws [could] be amended by the [b]oard." The Staff granted no-action relief under Rule 14a-8(i)(2), noting that in the opinion of Delaware counsel, the "implementation of the proposal would cause [the company] to violate state law because the proposed bylaw would conflict with [the company's] certificate of incorporation."

Other examples of the Staff concurring in the exclusion of a shareholder proposal, the implementation of which, in the opinion of Delaware counsel, would cause a company to violate Section 109(b) of the DGCL include *CVS Caremark Corp.* (avail. Mar. 9, 2010, *recon. denied* Mar. 17, 2010) (concurring with exclusion under Rule 14a-8(i)(2) of a proposal seeking a bylaw amendment that would require the board chair to be an independent director and could only be amended by stockholders, because such a bylaw would conflict with the company's certificate of incorporation, which gave the board authority to amend the bylaws); *Weirton Steel Corp.* (avail. Mar. 14, 1995) (concurring with exclusion, under the predecessor to Rule 14a-8(i)(2), of a proposal requesting an amendment to the bylaws requiring independent director vacancies to be filled by an election of stockholders where the certificate of incorporation called for board vacancies to be filled solely by a vote of directors); *Radiation Care Inc.* (avail. Dec. 22, 1994) (concurring in exclusion, under the predecessor to Rule 14a-8(i)(2), of a proposed bylaw amendment establishing a three member committee of shareholder representatives to review board activities, noting that "there is a substantial question as to whether, under Delaware law, the directors may adopt a bylaw provision that specifies that it may be amended only by shareholders").[1]

[1] The Staff has also concurred with the exclusion of proposals, the implementation of which would cause the company to violate the respective state law to which it is subject. *See, e.g., Elevance Health, Inc.* (avail. Mar. 31, 2022) (concurring with exclusion under Rule 14a-8(i)(2) of a shareholder proposal requesting that the board of directors take the necessary steps to permit written consent by shareholders entitled to cast the minimum number of votes necessary to authorize the action at a meeting where Indiana law prohibited action by less than unanimous written consent for

As explained further in the Delaware Law Opinion, implementation of the Proposal would cause the Company to violate Section 109(b) of the DGCL because Section 109(b) requires that by-law provisions not be inconsistent with law *or a company's certificate of incorporation* (emphasis added). 8 Del. C. § 109(b).[2] Delaware courts have consistently held that implementation of a by-law provision that is inconsistent with a company's certificate of incorporation would violate Delaware law. In particular, Delaware courts have held that implementation of a by-law that is not subject to amendment, alteration or repeal by that company's board of directors, where the certificate of incorporation gives the board of directors such authority, would be invalid under Delaware law. *Centaur Partners IV v. National Intergroup, Inc.*, 582 A.2d 923, 929 (Del. 1990); *See, Airgas, Inc. v. Air Products and Chemicals, Inc.*, 8 A.3d 1182 (Del. 2010) (invalidating a by-law that would have required directors to stand for re-election approximately two-and-a-half years after their election because the certificate of incorporation contemplated that directors would serve three-year terms); *Prickett v. American Steel and Pump Corp.*, 253 A.2d 86, 88 (Del. Ch. 1969) (invalidating a by-law providing one-year terms for directors because the certificate of incorporation provided three-year director terms); *Essential Enterprises Corporation v. Automatic Steel Products, Inc.*, 159 A.2d 288, 291 (Del. Ch. 1960) (invalidating a by-law providing for

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corporations with a class of voting shares registered under Section 12 of the Exchange Act); *Ball Corp.* (avail. Jan. 25, 2010) (concurring with the exclusion of a stockholder proposal requesting that the company take the necessary steps to declassify its board of directors where such declassification would violate state law)*; Vail Resorts, Inc*. (avail. Sep. 16, 2011) (concurring in exclusion of stockholder proposal to amend the bylaws to "make distributions to stockholders a higher priority than debt repayment or asset acquisition" under Rule 14a-8(i)(2) because the proposal would cause the company to violate state law); *Citigroup Inc*. (avail. Feb. 18, 2009) (concurring with exclusion of stockholder proposal to amend the by-laws to establish a board committee on U.S. economic security under Rule 14a-8(i)(2) because the proposal would cause the company to violate state law); *AT&T, Inc*. (avail. Feb. 19, 2008) (concurring with the exclusion under Rule 14a-8(i)(2) and Rule 14a-8(i)(6) of proposals requesting that the company take the necessary steps to amend the company's governing documents to permit stockholders to act by written consent and that the board adopt cumulative voting because the proposals would cause the company to violate state law); *The Boeing Co*. (avail. Feb. 19, 2008) (similar proposal seeking unilateral board action eliminating restrictions on stockholder actions by written consent violates Delaware law); *Monsanto Co*. (avail. Nov. 7, 2008, *recon. denied*, Dec. 18, 2008) (concurring with exclusion of stockholder proposal to amend the by-laws to require directors to take an oath of allegiance to the U.S. Constitution under Rule 14a-8(i)(2) because the proposal would cause the company to violate state law); *General Motors Corp.* (avail. Apr. 19, 2007) (proposed by-law amendment requiring each company director to oversee, evaluate and advise certain functional company groups violates Section 141(a) of the DGCL, which provides that all directors have the same oversight duties unless otherwise provided in the company's certificate of incorporation); and *Hewlett-Packard Co*. (avail. Jan. 6, 2005) (concurring with exclusion of a stockholder proposal recommending that the company amend its by-laws so that no officer may receive annual compensation in excess of certain limits without approval by a vote of "the majority of the stockholders" under Rule 14a-8(i)(2) because the proposal would cause the company to violate state law).

[2] DGCL §109(b) states, in relevant part: "*(b) The bylaws may contain any provision, not inconsistent with law or with the certificate of incorporation, relating to the business of the corporation, the conduct of its affairs, and its rights or powers or the rights or powers of its stockholders, directors, officers or employees.*"

removal of directors without cause because it was inconsistent with the certificate of incorporation).

Here, the plain text of the Proposal would permit only the Company's stockholders to amend the Company's current or future advanced notice by-law(s). However, Article Seventh of the Company's Certificate of Incorporation (the "**Certificate**"), attached hereto as Exhibit C, grants the Company's board of directors (the "**Board**") the unqualified power to amend any part of the Company's Second Amended and Restated By-Laws (the "**By-Laws**"), attached hereto as Exhibit D.[3] Pursuant to the foregoing, and in the opinion of the Company's Delaware counsel as explained in the Delaware Law Opinion, the Proposal is therefore in conflict with the Certificate and thus the implementation of the Proposal would be invalid under Delaware law. The Staff has previously concurred with the exclusion of a very similar proposal in *CVS Caremark Corporation* (avail. Mar. 9, 2010) on the grounds that the provisions of the proposal which granted only the stockholders the power to alter, amend or repeal the proposed by-law would be in direct conflict with the company's certificate of incorporation, which gave the board of directors such power to amend the company's by-laws.[4] In the Staff's concurrence, it noted the opinion of CVS's Delaware counsel that "implementation of the proposal would cause CVS to violate state law because the proposed by-law would conflict with CVS's certificate of incorporation."

While the Staff has previously been unable to concur with the exclusion of proposals under Rule 14a-8(i)(2) which sought to vest the ability to amend a company's by-laws solely in shareholders in *Hewlett Packard Enterprise Company* (oral response Jan. 29, 2020) and *Honeywell International Inc.* (oral response Jan. 29, 2020), the Company believes that the Proposal is distinguishable from each of the proposals considered in *Hewlett Packard* and *Honeywell.* Specifically, in *Hewlett Packard,* the proposal requested that the board of directors adopt a by-law that no amendment to the bylaws take effect until it has been approved by the shareholders, and that "if for some reason state law would restrict this shareholder approval provision then this proposal would call for a non-binding shareholder vote as soon as practical on any amendment to the bylaws that is adopted by the board." In *Honeywell,* the proposal requested that the board of directors amend the bylaws to require that "any amendment to [the] bylaws that is approved by the board shall be subject to a non-binding shareholder vote as soon as practical unless such amendment is already subject to a binding shareholder vote." Each of the certificates of

[3] The text of Article Seventh of the Certificate is as follows: "*The Board of Directors of the Corporation shall have the power to adopt, amend or repeal the By-Laws of the Corporation.*"

[4] The last sentence of the second paragraph of the proponent's adopting resolution contained the following language: "Notwithstanding any other provision in these by-laws, this Section may only be altered, amended or repealed by the stockholders entitled to vote thereon at any annual or special meeting thereof."

incorporation for *Hewlett Packard*[5] and *Honeywell*[6] granted unqualified power to the respective boards of directors to amend the respective bylaws. Thus, under the *Advanced Photonix* and *CVS* line of no-action relief described above, a proposal that sought to add a binding stockholder vote prior to the effectiveness of a bylaw amendment approved by the board of directors would have conflicted with the respective certificates of incorporation, and therefore would have been a violation of Delaware law (*i.e.,* Section 109(b)). However, the proposals in *Hewlett Packard* and *Honeywell* included language providing for a *non-binding* stockholder vote prior to the effectiveness of any bylaw amendment that was approved by the boards of directors. Here, unlike in *Hewlett Packard* and *Honeywell*, but similar to *Advanced Photonix* and *CVS*, there is no language in the Proposal requiring or contemplating a non-binding vote. Rather, the language in the Proposal requests an amendment to the By-Laws that would clearly conflict with the Certificate, thus, resulting in a violation of Delaware law if the Proposal was to be implemented.

We are aware that the Staff was unable to concur with the exclusion under Rule 14a-8(i)(2) of a proposal in *FedEx Corp.* (avail. July 3, 2018) which dealt with amendments to a company's bylaws. However, the Company believes the Proposal is also distinguishable from *FedEx*. In *FedEx*, the proposal requested that the company's board of directors *"take the steps necessary* to include text in the company bylaws that states that each bylaw amendment that is adopted by the [b]oard of [d]irectors shall not become effective until approved by shareholders" (emphasis added). While *FedEx*'s certificate of incorporation vested in the board of directors' unilateral authority to amend the company's bylaws, the proposal's request for the board of directors to "take the steps necessary" inherently called for first amending the company's certificate of incorporation to remove such unilateral authority. In addition, *FedEx*'s certificate of incorporation empowered the board of directors to make, alter, amend and repeal the by-laws "except so far as the [bylaws] adopted by the stockholders shall otherwise provide." Here, the Proposal only asks the Board to amend the By-Laws to include language that would require stockholder approval before certain amendments to the By-Laws can become effective. Unlike in *FedEx*, the Proposal does not contain any language requiring (or even suggesting) that the Certificate first be amended to limit the Board's ability to amend the By-Laws as part of the implementation of the Proposal. Additionally, unlike in *FedEx's* certificate of incorporation, the Board's authority to adopt, amend, or repeal the By-Laws is not subject to any limitation or qualification in the Certificate.

[5] The text of Section (B) of Article VI of the Hewlett Packard certificate of incorporation states, "[i]n furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors is expressly authorized to make, alter, amend, or repeal the Bylaws of the [Company]."

[6] The text of Article VIII of the Honeywell certificate of incorporation provides that "[t]he Board of Directors may from time to time make, amend, supplement or repeal the By-laws."

Therefore, in the opinion of the Company's Delaware counsel as explained in the Delaware Law Opinion, the implementation of the Proposal would violate Delaware law. Accordingly, the Company believes that the Proposal is excludable under Rule 14a-8(i)(2).

IV. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(1) Because the Proposal Is Not a Proper Subject for Action by the Stockholders Under Delaware Law.

Rule 14a-8(i)(1) permits an issuer to exclude a proposal if it "is not a proper subject for action by stockholders under the laws of the jurisdiction of the company's organization," and the Staff has recognized that proposals that, if implemented, would cause the company to breach state law may be omitted from a company's proxy statement in reliance on Rule 14a-8(i)(1). *See, Pennzoil Corporation* (Mar. 22, 1993) (concurring with exclusion, under the predecessor of Rule 14a-8(i)(1), of a proposal containing a provision prohibiting alterations of the implementing by-law without stockholder approval).[7] As described both above in Section III and in the Delaware Law Opinion in greater detail, the Proposal is not a proper subject for stockholder action under Delaware law because its terms fall outside of the types of by-law provisions permitted by Section 109(b) of the DGCL.

V. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(6) Because the Company Lacks the Power or Authority to Implement the Proposal.

Pursuant to Rule 14a-8(i)(6), a company may exclude a proposal "if the company would lack the power or authority to implement the proposal." The Staff has recognized proposals that, if implemented, would cause the company to breach state law may be omitted from a company's proxy statement in reliance on Rule 14a-8(i)(2) and 14a-8(i)(6).[8] As discussed in Section III and in the Delaware Law Opinion, implementation of the Proposal would cause the Company to violate Section 109(b) of the DGCL. Thus, for substantially the same reasons that the Proposal may be

[7] The relevant provision stated: "*5. This bylaw shall not be altered or repealed without approval of the stockholders.*"

[8] *See, Citigroup Inc.* (Feb. 18, 2009) (concurring with exclusion under Rule 14a-8(i)(2) and Rule 14a-8(i)(6) of a proposal urging the adoption of a policy that would breach the company's current compensation agreements by requiring senior executives to retain shares acquired as compensation for two years following the termination of their employment unless the proposal were revised to state that it would apply only to compensation awards made in the future); *NVR, Inc*. (Feb. 17, 2009) (same); *Bank of America Corp*. (Feb. 26, 2008) (concurring with exclusion under Rule 14a-8(i)(2) and Rule 14a-8(i)(6) of a proposal urging the board to disclose certain information regarding the company's relationships with compensation consultants, including information subject to binding confidentiality agreements); *AT&T Corp*. (Feb 19, 2008) (concurring with the exclusion under Rule 14a-8(i)(2) and Rule 14a-8(i)(6) of proposals requesting that the company amend the company's governing documents to permit stockholders to act by written consent and that the board adopt cumulative voting because the proposals would cause the company to violate state law); *The Boeing Co*. (Feb. 19, 2008) (concurring with the exclusion under Rule 14a-8(i)(2) and Rule 14a-8(i)(6) of a proposal requesting that the company amend the company's governing documents to permit stockholders to act by written consent because the proposal would cause the company to violate state law).

excluded under Rule 14a-8(i)(2) as violating Delaware law, it is also excludable under Rule 14a-8(i)(6) as beyond the Company's power to implement.

VI. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(3) Because It Is Contrary to the Proxy Rules.

Pursuant to Rule 14a-8(i)(3), a company may exclude a shareholder proposal "[i]f the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials." The Staff has often taken the view that a proposal may be excluded pursuant to Rule 14a-8(i)(3) on the basis that the proposal is so vague and indefinite as to be misleading where "neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." *Staff Legal Bulletin No. 14B* (Sept. 15, 2004) ("**SLB 14B**"). The Staff has also consistently taken the view that a shareholder proposal can be misleading and therefore excludable under Rule 14a-8(i)(3) when the company and its shareholders might interpret the proposal differently, such that "any action ultimately taken by the [c]ompany upon implementation [of the proposal] could be significantly different from the actions envisioned by the shareholders voting on the proposal," *Fuqua Industries, Inc.* (avail. Mar. 12, 1991).

The Staff has also articulated that when the terms of a proposal are unclear and the proponent has not provided adequate guidance on how such ambiguities or uncertainties should be resolved, that proposal may be excluded pursuant to Rule 14a-8(i)(3) as vague and indefinite.[9] In the absence of sufficient guidance (whether from the text of the proposal itself or the supporting statement), the company could not "determine with any reasonable certainty exactly what actions or measures the proposal requires," and therefore the proposal might be implemented in a way that

[9] *See, Moody's Corp.* (avail. Feb. 10, 2014) (concurring in exclusion of a proposal when the term "ESG risk assessments" was not defined)*; Bank of America Corp.* (avail. Mar 12, 2013) (concurring in the exclusion of a proposal regarding the exploration of "extraordinary transactions that could enhance shareholder value" where the definition "extraordinary transactions" was inconsistent and unclear throughout the proposal and the supporting statement); *Verizon Communications Inc.* (Feb. 21, 2008) (concurring with the exclusion of a proposal regarding formulas for short- and long-term incentive-based executive compensation where the methods of calculation provided were inconsistent with each other); *International Business Machines Corp.* (Feb. 2, 2005) (concurring in the exclusion of a proposal regarding executive compensation because the identity of the affected executives was uncertain and subject to multiple interpretations); *Peoples Energy Corp.* (Nov. 23, 2004, *recon. denied* Dec. 10, 2004) (concurring in the exclusion of a proposal where the term "reckless neglect" was uncertain and subject to multiple interpretations); *Norfolk Southern Corp.* (Feb. 13, 2002) (concurring in the exclusion of a proposal requesting that the board of directors "provide for a shareholder vote and ratification, in all future elections of Directors, candidates with solid background, experience and records of demonstrated performance in key managerial positions within the transportation industry" because it did not provide adequate guidance to resolve potential inconsistencies and ambiguities with respect to its criteria).

could be "significantly different than the actions envisioned by the shareholders voting on the proposal."[10]

Here, the Proposal requests that the directors of the Company amend the By-Laws to include specific language requiring shareholder approval for any amendment to the Company's advance notice bylaw(s) that, among other things, "impose new disclosure requirements for director nominees, including disclosures related to *past and future plans*, . . ." (emphasis added). The phrase "past and future plans" is vague and indefinite, and the meaning of past and future plans could be subject to differing interpretations by the Company and shareholders voting on the Proposal. Further, neither the resolved clause in the Proposal nor the Supporting Statement provide any clarification as to what "past and future plans" means, nor is the meaning of this phrase self-evident. Therefore, stockholders voting on the Proposal are susceptible to interpreting the Proposal in materially different ways from each other, and in materially different ways from the Company. These potentially divergent interpretations of the vague language included in the Proposal could result in actions taken by the Company which do not align with the shareholders' expectations.

The term "past and future plans" is so vague and indefinite as to make the Proposal itself materially misleading because the specific term is requested to be included in the language of a bylaw amendment. The term's importance is heightened because, if the amendment were legally adopted, the term's exact words would be included in the By-Laws. If the Company were to amend its By-Laws to include the exact language provided in the Proposal as requested in the Proposal, it would create a great amount of legal uncertainty as to the meaning and application of the words "past and future plans." For example, the required disclosure could be interpreted to relate to a director nominee's "past and future plans" with regard to the Company's business operations. However, when read in conjunction with requirement #3 of the Proposal's resolved clause (*i.e.,* "require nominating shareholders to disclose limited partners to disclose limited partners or business associates, except to the extent such investors own more than 5% of the Company's shares"), "past and future plans" could be interpreted to relate to a director nominee's plans with regard to the Company's securities. If the Proposal was implemented, these (among other

[10] *See, The Walt Disney Company* (avail. Jan. 19, 2022) (concurring in exclusion of a proposal concerning "politically charged biases" where the Staff noted in its no-action letter that "neither shareholders nor the Company would be able to determine with reasonable certainty exactly what actions or measures the [p]roposal requests"); *Apple, Inc.* (avail. Dec. 6, 2019) (concurring in exclusion of a proposal seeking to "improve [the] guiding principles of executive compensation" because "the [p]roposal lacks sufficient description about the changes, actions or ideas for the Company and its shareholders to consider that would potentially improve the guiding principles"); *Ebay, Inc.* (avail. Apr. 10, 2019) (concurring in exclusion of a proposal requesting that the company "reform the company's executive compensation committee" because "neither shareholders nor the Company would be able to determine with any reasonable certainty the nature of the 'reform' the [p]roposal is requesting"); *Pfizer Inc.* (avail. Dec. 22, 2014) (concurring in exclusion of a proposal requesting that the chairman be an independent director whose only "nontrivial professional, familial or financial connection to the company or its CEO is the directorship," because the scope of prohibited "connections" was unclear).

potential) differing interpretations could lead to uncertainty as to when the Company must seek shareholder approval of a future amendment to the By-Laws.

The Staff has consistently concurred in the exclusion of proposals that fail to provide any guidance on implementation and "would be subject to differing interpretation both by shareholders voting on the proposal and the [c]ompany's board in implementing the proposal, if adopted, with the result that any action ultimately taken by the [c]ompany could be significantly different from the action envisioned by shareholders voting on the proposal." *Exxon Corporation* (Jan. 29, 1992). The Staff has also concurred in exclusion of proposals that fail to define key terms. *See, Moody's Corp*. (Feb. 10, 2014) (concurring in exclusion of a proposal when the term "ESG risk assessments" was not defined); *The Boeing Company* (Mar. 2, 2011) (concurring in exclusion of a proposal because it failed to "sufficiently explain the meaning of 'executive pay rights'"); and *NSTAR* (Jan. 5, 2007) (concurring in exclusion of a proposal requesting standards of "record keeping of financial records" as inherently vague and indefinite because the terms "record keeping" and "financial records" were undefined).

Additionally, the language of the Proposal leaves the Board with no discretion in its implementation. Unlike shareholder proposals where a vague or uncertain term may be left to the board of directors' discretion to interpret or resolve, here the Proposal requests specific language be added to the By-Laws. The Proposal explicitly requires the By-Laws "to include the following language," and the Board does not have the ability, either explicit or implicit, to alter the language provided in the Proposal. Further, due to the lack of any clarifying language in the Supporting Statement, if the Board were to take it upon itself to elucidate the meaning of "past and future plans," the Board would be at risk of materially altering the intent of the Proposal and diverging from what was contemplated by the Proponent, the Proposal and/or a stockholder voting on the Proposal.

Thus, because the Proposal includes a material term that is so inherently vague or indefinite that "neither the stockholders voting on the proposal, nor the Company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires," the Proposal may properly be excluded under Rule 14a-8(i)(3) on the basis that the Proposal is materially false and misleading in violation of Rule 14a-9. *SLB 14B*.

VII. Conclusion

For the foregoing reasons, Celldex respectfully requests the concurrence of the Staff that the Proposal may be excluded from the 2023 Proxy Materials pursuant to Rule 14a-8(i)(2), Rule 14a-8(i)(1), Rule 14a-8(i)(6), and Rule 14a-8(i)(3).

If we can be of any further assistance, or if the Staff should have any questions, please do not hesitate to contact me at (212) 206-8689 or via email at apergola@lowenstein.com.

Sincerely,

/s/ Anthony Pergola

Anthony Pergola

cc: James McRitchie
John Chevedden
Karen L. Shoos, Chair of the Board, *Celldex Therapeutics, Inc.*
Anthony S. Marucci, Chief Executive Officer, *Celldex Therapeutics, Inc.*
Freddy Jimenez, Senior Vice President and General Counsel, *Celldex Therapeutics, Inc.*
Kate Basmagian, *Lowenstein Sandler*

EXHIBIT A

The Proposal and Correspondence

From: James McRitchie [redacted]
Sent: Sunday, December 4, 2022 4:40 PM
To: Sam Martin
Cc: John Chevedden
Subject: (CLDX) shareholder proposal
Attachments: CLDX delegation2023ltr FE.pdf

Please find and acknowledge the attached shareholder proposal for the next AGM. Thanks.

According to SEC SLB 14L https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder- proposals, Section F, Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested." I so request.

James McRitchie
Shareholder Advocate
Corporate Governance
http://www.corpgov.net
[redacted]

Corporate Governance

CorpGov.net: improving accountability through democratic corporate governance since 1995

James McRitchie [redacted]

Celldex Therapeutics, Inc.
Attention: Corporate Secretary
Perryville III Building
53 Frontage Road, Suite 220
Hampton, NJ 08827
Via: smartin@celldextherapeutics.com

Dear Corporate Secretary:

I am submitting the attached shareholder proposal, which I support, requesting **Fair Elections** in bylaw provisions for presentation at the next shareholder meeting. I pledge to continue to hold the required amount of stock until after the date of that meeting.

I will meet Rule 14a-8 requirements including the continuous ownership of the required stock until after the date of the next shareholder meeting. I have owned the stock continuously since 2010. My submitted format, with the shareholder-supplied emphasis and graphic, is intended to be used for definitive proxy publication.

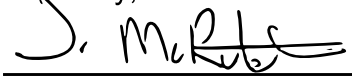
I am available to meet with the Company representative via phone or Zoom on December 20 at 8:00 am, 8:30 am Pacific, or at another time that is mutually convenient to discuss the proposal.

This letter confirms that I am delegating John Chevedden to act as my agent regarding presentation of this Rule 14a-8 proposal at the forthcoming shareholder meeting. Please include me [redacted] Mr. Chevedden in all future communications regarding my rule 14a-8 proposal. John Chevedden [redacted]

You can avoid the time and expense of filing a deficiency letter to verify ownership. Simply acknowledge receipt of my proposal promptly by emailing [redacted] with a cc to [redacted] That will prompt me to request the required letter from my broker and to evidence ownership.

According to SEC SLB 14L https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals, Section F, Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested." I so request.

Sincerely,



James McRitchie

December 4, 2022

Date

[CLDX: Rule 14a-8 Proposal, December 4, 2022]
[This line and any line above it – *Not* for publication.]

Proposal [4*] – Fair Elections

Resolved

James McRitchie and other shareholders request that directors of Celldex Therapeutics Inc. ("Company") amend its bylaws to include the following language:

Shareholder approval is required for any advance notice bylaw amendments that:

1. require the nomination of candidates more than 90 days before the annual meeting,

2. impose new disclosure requirements for director nominees, including disclosures related to past and future plans, or

3. require nominating shareholders to disclose limited partners or business associates, except to the extent such investors own more than 5% of the Company's shares.

Supporting Statement

Under SEC Rule 14a-19, the universal proxy card must include all director nominees presented by management and shareholders for election.[1] Although the Rule implies each side's nominees must be grouped together and clearly identified as such, in a fair and impartial manner, most rules for director elections are set in company bylaws.

For Rule 14a-19 to be implemented equitably, boards must not undertake bylaw amendments that deter legitimate efforts by shareholders to submit nominees. The bylaw amendments set forth in the proposed resolution would presumptively deter legitimate use of Rule 14a-19 by deterring legitimate efforts by shareholders to seek board representation through a proxy contest.

The power to amend bylaws is shared by directors and shareholders. Although directors have the power to adopt bylaw amendments, shareholders have the power to check that authority by repealing board-adopted bylaws. Directors should not amend the bylaws in ways that inequitably restrict shareholders' right to nominate directors. This resolution simply asks the board to commit not to amend the bylaws to deter legitimate

[1] https://www.ecfr.gov/current/title-17/chapter-II/part-240/section-240.14a-19

efforts to seek board representation, without submitting such amendments to shareholders. We urge the Board not to further amend its advance notice bylaws until shareholders have at least voted on this proposal.

Bloomberg's Matt Levine speculates bylaws might require disclosure submissions "on paper woven from unicorns' manes,"[2] with requirements waived for the board's nominees. While Mr. Levine depicts humorous and exaggerated possibilities, some companies are adopting amendments clearly designed to discourage fair elections.

Directors of at least one company (Masimo Corp.) recently adopted bylaw amendments that could deter legitimate efforts by shareholders to seek board representation through a proxy contest. Masimo's advance notice bylaws "resemble the 'nuclear option' and offers a case study in how rational governance devices can become unduly weaponized, writes Lawrence Cunningham.[3] Directors of other companies are considering similar proposals.

To ensure shareholders can vote on any proposal that would impose inequitable restrictions, we urge a vote FOR Fair Elections.

To Enhance Shareholder Value, Vote FOR
Fair Elections – Proposal [4*]

[This line and any below are *not* for publication]
Number 4* to be assigned by Company

The graphic above is intended to be published with the rule 14a-8 proposal.
The graphic would be the same size as the largest management graphic (and/or accompanying bold or highlighted management text with a graphic, box or shading) or any highlighted management executive summary used in conjunction with a management proposal or any other rule 14a-8 shareholder proposal in the 2023 proxy.

The proponent is willing to discuss the mutual elimination of both shareholder graphic and management graphic in the proxy in regard to specific proposals.

Reference: SEC Staff Legal Bulletin No. 14I (CF)[16] Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics. If a company's proxy statement appears in black and white, however, the shareholder proposal and accompanying graphics may also appear in black and white.

---

[2] https://www.bloomberg.com/opinion/articles/2022-10-27/credit-suisse-gives-first-boston-gets-a-second-chance?sref=a7KhiWzs

[3] https://corpgov.law.harvard.edu/2022/10/23/the-hottest-front-in-the-takeover-battles-advance-notice-bylaws/

Notes: This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

> Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(i)(3) in the following circumstances:
>
> - the company objects to factual assertions because they are not supported;
> - the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
> - the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
> - the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.
>
> **We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.**

See also Sun Microsystems, Inc. (July 21, 2005)

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email to [redacted]

From: James McRitchie [redacted]
Sent: Tuesday, December 6, 2022 4:02 PM
To: Sam Martin
Cc: John Chevedden
Subject: Re: (CLDX) shareholder proposal

Thanks for the confirmation. We have requested the broker letter and will forward it in a few days.

James McRitchie
Shareholder Advocate
Corporate Governance
http://www.corpgov.net
[redacted]

On Dec 6, 2022, at 9:16 AM, Sam Martin <smartin@celldex.com> wrote:

Your email was received and is under review.

Sam

Sam Martin
Senior Vice President and
Chief Financial Officer
Celldex Therapeutics, Inc.
[redacted]

From: James McRitchie [redacted]
Sent: Sunday, December 4, 2022 4:40 PM
To: Sam Martin <smartin@celldextherapeutics.com>
Cc: John Chevedden [redacted]
Subject: (CLDX) shareholder proposal

Please find and acknowledge the attached shareholder proposal for the next AGM. Thanks.

According to SEC SLB 14L https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder- proposals, Section F, Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested." I so request.

James McRitchie
Shareholder Advocate
Corporate Governance
http://www.corpgov.net
[redacted]

<Mail Attachment.eml>

From: James McRitchie [redacted]
Sent: Thursday, December 8, 2022 10:59 AM
To: Sam Martin
Cc: John Chevedden [redacted]
Subject: Re: (CLDX) shareholder proposal
Attachments: McRitchie 7383 CLDX.pdf

Attached is a broker letter evidencing required ownership. Please confirm.
James McRitchie
Shareholder Advocate
Corporate Governance
http://www.corpgov.net
[redacted]

On Dec 6, 2022, at 9:16 AM, Sam Martin <smartin@celldex.com> wrote:

Your email was received and is under review.

Sam

Sam Martin
Senior Vice President and
Chief Financial Officer
Celldex Therapeutics, Inc.
[redacted]

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Sent: Sunday, December 4, 2022 4:40 PM
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Cc: John Chevedden [redacted]
Subject: (CLDX) shareholder proposal

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According to SEC SLB 14L https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder- proposals, Section F, Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested." I so request.

James McRitchie
Shareholder Advocate
Corporate Governance

http://www.corpgov.net

<Mail Attachment.eml>

TD Ameritrade

12/07/2022

James McRitchie
[redacted]

Re: Your TD Ameritrade Account

Dear James McRitchie,

Thank you for allowing me to assist you today. Pursuant to your request, this confirms that as of the date of this letter, James McRitchie has held since 01/05/2018 and continues to hold 55 common shares of Celldex Therapeutics Inc. (CLDX) in an account at TD Ameritrade. The DTC clearinghouse number for TD Ameritrade is 0188.

If we can be of any further assistance, please let us know. Just log in to your account and go to the Message Center to write us. You can also call Private Client Services at 800-400-4078. We're available 24 hours a day, seven days a week.

Sincerely,

Jennifer Hickman

Jennifer Hickman
Resource Specialist
TD Ameritrade

TDA 1002212 11/21

From: James McRitchie [redacted]
Sent: Thursday, December 8, 2022 2:49 PM
To: Sam Martin
Cc: John Chevedden [redacted]
Subject: Re: (CLDX) shareholder proposal

Thanks. Much appreciated.

James McRitchie
Shareholder Advocate
Corporate Governance
http://www.corpgov.net
[redacted]

On Dec 8, 2022, at 8:02 AM, Sam Martin <smartin@celldex.com> wrote:

Received.

Sam

Sam Martin
Senior Vice President and
Chief Financial Officer
Celldex Therapeutics, Inc.
[redacted]

From: James McRitchie [redacted]
Sent: Thursday, December 8, 2022 10:59 AM
To: Sam Martin <smartin@celldex.com>
Cc: John Chevedden [redacted]
Subject: Re: (CLDX) shareholder proposal

Attached is a broker letter evidencing required ownership. Please confirm.
James McRitchie
Shareholder Advocate
Corporate Governance
http://www.corpgov.net
[redacted]

[redacted]

On Dec 6, 2022, at 9:16 AM, Sam Martin <smartin@celldex.com> wrote:

Your email was received and is under review.

Sam

Sam Martin
Senior Vice President and
Chief Financial Officer
Celldex Therapeutics, Inc.
[redacted]

From: James McRitchie [redacted]
Sent: Sunday, December 4, 2022 4:40 PM
To: Sam Martin <smartin@celldextherapeutics.com>
Cc: John Chevedden [redacted]
Subject: (CLDX) shareholder proposal

Please find and acknowledge the attached shareholder proposal for the next AGM. Thanks.

According to SEC SLB 14L https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder- proposals, Section F, Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested." I so request.

James McRitchie
Shareholder Advocate
Corporate Governance
http://www.corpgov.net
[redacted]

<Mail Attachment.eml>

EXHIBIT B

The Delaware Law Opinion

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

1201 NORTH MARKET STREET
P.O. BOX 1347
WILMINGTON, DELAWARE 19899-1347

(302) 658-9200
(302) 658-3989 FAX

February 3, 2023

Celldex Therapeutics, Inc.
Perryville III Building
53 Frontage Road, Suite 220
Hampton, NJ 08827

Re: Stockholder Proposal Submitted by James McRitchie

Ladies and Gentlemen:

This letter confirms our opinion regarding a stockholder proposal (the "Proposal") submitted to Celldex Therapeutics, Inc., a Delaware corporation (the "Company"), by James McRitchie (the "Proponent") for inclusion in the Company's proxy materials for its 2023 annual meeting of stockholders. We are a law firm based in the State of Delaware specializing in matters of Delaware corporate law. The partner of this firm responsible for the preparation of this letter is Jeffrey R. Wolters, a member in good standing of the Delaware bar since 1994.

For the reasons explained below, it is our opinion that (i) the Proposal, if implemented, would cause the Company to violate Delaware law; (ii) the Proposal is not a proper subject for stockholder action under Delaware law; and (iii) the Company lacks the power and authority to implement the Proposal.

I. Summary.

The Proposal asks the Board of Directors of the Company (the "Board") to amend the By-laws of the Company (the "By-laws") to include the following language:

> Shareholder approval is required for any advance notice bylaw amendments that:
> 1. require the nomination of candidates more than 90 days before the annual meeting,
> 2. impose new disclosure requirements for director nominees, including disclosures related to past and future plans, or
> 3. require nominating shareholders to disclose limited partners or business associates, except to the extent such investors own more than 5% of the Company's shares.

Implementation of the Proposal would violate Delaware law. The by-law contemplated by the Proposal would contradict the Company's Third Restated Certificate of Incorporation, as amended (the "Certificate"). This is because the Proposal expressly conditions the Board's power to adopt future by-law amendments regarding the three topics listed in the Proposal (the "Advance Notice By-law Issues") on a requirement that the amendments be submitted for a stockholder vote. However, the Certificate grants the Board the unqualified power to amend the By-laws. The Delaware General Corporation Law (the "DGCL") expressly prohibits the adoption of by-law provisions that are inconsistent with a company's certificate of incorporation. Because the Proposal would enact a by-law that is inconsistent with the Certificate: (i) the Company would violate Delaware law if the Board implemented the Proposal; (ii) the Proposal is not a proper subject for stockholder action under Delaware law; and (iii) the Company lacks the power and authority to implement the Proposal.

II. Analysis.

As noted above, the Proposal asks the Board to adopt a new by-law that would require future by-law amendments regarding the Advance Notice By-law Issues to be approved by a vote of the Company's stockholders. Such a by-law would create a category of by-law provisions that could not be amended by the Board. This new by-law would therefore contradict the Certificate, which grants the Board the *unqualified* power to amend the By-laws without any conditions. Article SEVENTH of the Certificate states: "The Board of Directors of the Corporation shall have the power to adopt, amend or repeal the By-Laws of the Corporation." The Certificate does not limit in any respect the Board's power to amend the By-laws, and therefore the Certificate mandates that any part of the By-laws may be amended by the Board.

Given this clear conflict between the Proposal and the Certificate, the Proposal would violate an express provision of the DGCL. Under Section 109(b) of the DGCL, the By-laws may only contain provisions that are consistent with the Certificate:

> The bylaws may contain any provision, *not inconsistent* with law *or with the certificate of incorporation*, relating to the business of the corporation, the conduct of its affairs, and its rights or powers or the rights or powers of its stockholders, directors, officers or employees.

Applying this clear statutory mandate, the Delaware courts have consistently held that by-laws contradicting the certificate of incorporation are invalid and a "nullity." These cases span several decades.[1]

---

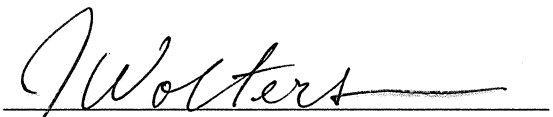
[1] *Centaur Partners, IV v. National Intergroup, Inc.*, 582 A.2d 923, 929 (Del. 1990) (discussed later in this opinion); *Airgas, Inc. v. Air Products and Chemicals, Inc.*, 8 A.3d 1182 (Del. 2010) (invalidating a by-law that would have required directors to stand for re-election approximately two-and-a-half years after their election because the certificate of incorporation contemplated that directors would serve three-year terms); *Sinchareonkul v. Fahnemann*, 2015 WL 292314, at *6 (Del. Ch. Jan. 22, 2015) ("A bylaw that conflicts with the charter is void, as is a bylaw or charter provision that conflicts with the DGCL."); *Oberly v. Kirby*, 592 A.2d

The Delaware Supreme Court has in fact invalidated a by-law that implicated exactly the same conflict with a certificate of incorporation that is presented by the Proposal. Specifically, in *Centaur Partners*, a proponent asked stockholders to adopt a by-law fixing the size of the board and purporting to specify that the by-law would not be subject to future amendment by the board. The certificate of incorporation at issue in *Centaur Partners* provided that the size of the board was to be fixed in the by-laws, and the certificate provided the board the "general authority to adopt or amend the corporate by-laws."[2] The Delaware Supreme Court held that the proposal "would be a nullity if adopted" because it was clearly inconsistent with the board's power to amend the by-laws (and thereby make further changes to board size). The Proposal at issue here contains exactly the same conflict because it would create a category of by-laws that could not be adopted by board amendment, in clear contradiction of the Company's Certificate provision which grants the Board the unqualified power to amend the By-laws.

Because the Proposal would cause the Company to violate Section 109(b) of the DGCL and the Delaware cases applying that statute, the Proposal would violate Delaware law if the Board implemented it. Furthermore, because Section 109(b) of the DGCL prohibits the By-laws from containing provisions inconsistent with the Certificate, the Proposal is not a proper subject for stockholder action under Delaware law.[3] Finally, because the proposed by-law would be a "nullity" if purportedly adopted, the Company lacks the power and authority to implement the Proposal.

Very truly yours,

Morris, Nichols, Arsht & Tunnell LLP

By: 
Jeffrey R. Wolters, Partner

445, 458 & n.6 (Del. 1991) (finding a by-law limiting membership in a nonstock corporation to its directors invalid because the certificate of incorporation granted members the ability to select other members, and clarifying in footnote that "a corporation's bylaws may never contradict its certificate of incorporation"); *Prickett v. American Steel and Pump Corp.*, 253 A.2d 86, 88 (Del. Ch. 1969) (invalidating a by-law providing one-year terms for directors because the certificate of incorporation provided three-year director terms); *Essential Enterprises Corporation v. Automatic Steel Products, Inc.*, 159 A.2d 288, 291 (Del. Ch. 1960) (invalidating a by-law providing for removal of directors without cause because it was inconsistent with the certificate of incorporation); *Gaskill v. Gladys Belle Oil Co.*, 146 A. 337 (Del. Ch. 1929) (invalidating a by-law that purported to grant broader rights to preferred stock than indicated in the certificate of incorporation, despite the fact that the by-law was adopted unanimously by the stockholders).

2 Although not quoted in the opinion, the certificate provision in *Centaur* that conferred by-law amendment power on the board is very similar to the Company's Certificate. *See* Restated Certificate of Incorporation of National Intergroup, Inc., Article SEVENTH ("In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter or repeal the by-laws of the Corporation.") (publicly filed with the Secretary of State of the State of Delaware on March 18, 1983).

3 *See CA, Inc. v. AFSCME Employees Pension Plan*, 953 A.2d 227 (Del. 2008) (analyzing whether a proposed by-law was a proper subject for stockholder action by inquiring (among other considerations) whether the proposal is within the "scope of shareholder action that Section 109(b) permits").

EXHIBIT C

The Charter

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS FILED FROM AND INCLUDING THE RESTATED CERTIFICATE OR A MERGER WITH A RESTATED CERTIFICATE ATTACHED OF "CELLDEX THERAPEUTICS, INC." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

RESTATED CERTIFICATE, FILED THE SEVENTH DAY OF NOVEMBER, A.D. 1990, AT 9 O`CLOCK A.M.

CERTIFICATE OF AMENDMENT, FILED THE NINTH DAY OF OCTOBER, A.D. 1992, AT 11 O`CLOCK A.M.

CERTIFICATE OF DESIGNATION, FILED THE TENTH DAY OF NOVEMBER, A.D. 1994, AT 1 O`CLOCK P.M.

CERTIFICATE OF CHANGE OF REGISTERED AGENT, FILED THE SIXTEENTH DAY OF FEBRUARY, A.D. 1995, AT 12 O`CLOCK P.M.

2023075 8100X
SR# 20230331606

Authentication: 202621053
Date: 02-01-23

You may verify this certificate online at corp.delaware.gov/authver.shtml

Delaware

The First State

CERTIFICATE OF AMENDMENT, CHANGING ITS NAME FROM "T CELL SCIENCES, INC." TO "AVANT IMMUNOTHERAPEUTICS, INC.", FILED THE TWENTY-FIRST DAY OF AUGUST, A.D. 1998, AT 4:30 O`CLOCK P.M.

CERTIFICATE OF OWNERSHIP, FILED THE THIRTIETH DAY OF DECEMBER, A.D. 1998, AT 3:30 O`CLOCK P.M.

CERTIFICATE OF OWNERSHIP, FILED THE TWENTIETH DAY OF DECEMBER, A.D. 1999, AT 3 O`CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF OWNERSHIP IS THE THIRTY-FIRST DAY OF DECEMBER, A.D. 1999.

CERTIFICATE OF OWNERSHIP, FILED THE THIRTY-FIRST DAY OF JANUARY, A.D. 2001, AT 2:30 O`CLOCK P.M.

CERTIFICATE OF AMENDMENT, FILED THE TWENTY-SECOND DAY OF APRIL, A.D. 2002, AT 12:30 O`CLOCK P.M.

CERTIFICATE OF DESIGNATION, FILED THE EIGHTH DAY OF NOVEMBER, A.D. 2004, AT 12:23 O`CLOCK P.M.

CERTIFICATE OF DESIGNATION, FILED THE EIGHTH DAY OF NOVEMBER, A.D. 2004, AT 12:24 O`CLOCK P.M.

2023075 8100X
SR# 20230331606

Authentication: 202621053
Date: 02-01-23

You may verify this certificate online at corp.delaware.gov/authver.shtml

Delaware

The First State

CERTIFICATE OF AMENDMENT, FILED THE SEVENTH DAY OF MARCH, A.D. 2008, AT 11:53 O`CLOCK A.M.

CERTIFICATE OF AMENDMENT, FILED THE SEVENTH DAY OF MARCH, A.D. 2008, AT 11:54 O`CLOCK A.M.

CERTIFICATE OF AMENDMENT, CHANGING ITS NAME FROM "AVANT IMMUNOTHERAPEUTICS, INC." TO "CELLDEX THERAPEUTICS, INC.", FILED THE TWENTY-FIFTH DAY OF SEPTEMBER, A.D. 2008, AT 2:23 O`CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF AMENDMENT IS THE FIRST DAY OF OCTOBER, A.D. 2008.

CERTIFICATE OF OWNERSHIP, FILED THE THIRTY-FIRST DAY OF DECEMBER, A.D. 2009, AT 9:11 O`CLOCK A.M.

CERTIFICATE OF OWNERSHIP, FILED THE THIRTY-FIRST DAY OF DECEMBER, A.D. 2009, AT 9:12 O`CLOCK A.M.

CERTIFICATE OF OWNERSHIP, FILED THE THIRTY-FIRST DAY OF DECEMBER, A.D. 2014, AT 8 O`CLOCK A.M.

2023075 8100X
SR# 20230331606

Authentication: 202621053
Date: 02-01-23

You may verify this certificate online at corp.delaware.gov/authver.shtml

Delaware

The First State

CERTIFICATE OF MERGER, FILED THE THIRTIETH DAY OF DECEMBER, A.D. 2016, AT 8:02 O`CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF MERGER IS THE THIRTY-FIRST DAY OF DECEMBER, A.D. 2016 AT 11:59 O'CLOCK P.M.

CERTIFICATE OF OWNERSHIP, FILED THE NINETEENTH DAY OF MAY, A.D. 2017, AT 3:28 O`CLOCK P.M.

CERTIFICATE OF AMENDMENT, FILED THE EIGHTH DAY OF FEBRUARY, A.D. 2019, AT 8 O`CLOCK A.M.

2023075 8100X
SR# 20230331606

Authentication: 202621053
Date: 02-01-23

You may verify this certificate online at corp.delaware.gov/authver.shtml

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
RECEIVED 10:24 AM 11/07/1990
680311051

680309051

DATE SUBMITTED NOv. 7, 1990

UNITED STATES CORPORATION COMPANY

FILED BY: ~~THE PRENTICE-HALL CORPORATION~~

~~SYSTEM, INC.~~ JERI

PAUL A - NY

Job # 12-91-00015

FILE DATE Nov. 7,1990

TIME 9 am

FILER'S NO. ~~900011~~ 13

NAME OF COMPANY T CELL SCIENCES, INC.

RESERVATION # _____

FILE NUMBER 20230-75

TYPE OF DOCUMENT REstated

SECTION NO. ~~245~~

CHANGES NAME _____

CHANGES AGENT/OFFICE _____

STOCK $ _____

TO $ _____

RECEIVED
NOV 7 1990
Division of Corporations

_____ FRANCHISE TAX _____ $ _____

Filing Fee Tax $ 30

Receiving and Indexing $ 50

No. 2 Certified Copies $ 40

No. _____ PAGES (If Prepared by the Division of Corp.) $ _____

OTHER _____ $ _____

OTHER _____ $ _____

SPECIAL SERVICES $ _____

SPECIAL SERVICES $ _____

Must for today

TOTAL $ _____

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~~---SECRETARY-OF-STATE--------O~~
~~DIVISION-OF-CORPORATIONS-----I~~
~~RECEIVED-10:24-AM-11/07/1990-D~~
~~680309051~~----------
BY CHERYL WYATT

SECRETARY OF STATE

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 09:00 AM 11/07/1990
680311051 - 2023075

THIRD RESTATED
CERTIFICATE OF INCORPORATION
OF
T CELL SCIENCES, INC.

T CELL SCIENCES, INC., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The name of the Corporation is T Cell Sciences, Inc. The original Certificate of Incorporation was filed with the Secretary of State on December 9, 1983. The Corporation filed a Restated Certificate of Incorporation with the Secretary of State on May 21, 1986 and a Second Restated Certificate of Incorporation with the Secretary of State on November 7, 1989 (the "Second Restated Certificate of Incorporation").

2. This Third Restated Certificate of Incorporation only restates and integrates and does not further amend the provisions of the Second Restated Certificate of Incorporation as amended or supplemented heretofore, and there is no discrepancy between those provisions and the provisions of this Third Restated Certificate of Incorporation.

3. The text of the Second Restated Certificate of Incorporation as amended or supplemented heretofore is hereby restated and shall read as herein set forth in full:

"FIRST: The name of the corporation is:

T Cell Sciences, Inc.

SECOND: The registered office of the Corporation is to be located at 32 Loockerman Square, in the City of Dover, in the County of Kent, in the State of Delaware. The name of its registered agent at that address is the United States Corporation Company.

THIRD: The purposes for which the Corporation is formed are to engage in research and development relating to immunology and to be engaged in the production, manufacture and marketing of pharmaceuticals and medical procedures related thereto, and to engage in any lawful activity for which a corporation may be organized under the General Corporation Law of Delaware.

FOURTH: The aggregate number of shares which the Corporation shall have authority to issue is twenty-nine million, one hundred and sixty-three thousand, one hundred and two (29,163,102) shares which may be issued in three classes as follows: (a) twenty-five million (25,000,000) shares of Common Stock, par value One Tenth of One Cent ($.001) per share ("Common Stock"), (b) one million, one hundred sixty-three thousand, one hundred and two (1,163,102) shares of Class B Preferred Stock, (heretofore issued and designated as Series B), par value Two Dollars ($2.00) per share ("Voting Class B Preferred Stock"); and (c) three million (3,000,000) shares of Class C Preferred Stock, par value one cent ($.01) per share ("Class C Preferred Stock").

No holder of shares of the Corporation of any class whether now or hereafter authorized shall have any preemptive

right to subscribe for, purchase or receive any shares of the Corporation of any class, whether now or hereafter authorized, or any options or warrants to purchase any such shares, or any securities convertible into or exchanged for any such shares, which may at any time be issued, sold, or offered for sale by the Corporation.

No holders of shares of the Corporation of any class whether now or hereafter authorized shall have the right to vote such shares cumulatively in any election for the Board of Directors.

I. Voting Class B Preferred Stock shall have the following rights, preferences, privileges and qualifications, limitations or restrictions.

1. Voting.

(a) The holders of shares of Voting Class B Preferred Stock shall be entitled to one vote per share.

(b) The Corporation shall not, without the written consent or affirmative vote of the holders of at least two-thirds of the then outstanding shares of Voting Class B Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) as a single class, reorganize, reclassify its capital stock, merge with or into or consolidate with any other corporation, or sell, lease, license, or otherwise dispose of all or substantially all of its properties or assets or issue (in a single transaction or series of related transactions)

shares of Common Stock which represent more than 50% of the outstanding shares of Common Stock of the Corporation immediately after such issuance (assuming conversion of all shares of Voting Class B Preferred Stock).

2. Dividends. The holders of shares of Voting Class B Preferred Stock shall not be entitled to dividends except as and when declared by the Board of Directors and at such rates as shall be established by the Board of Directors. Dividends on the Voting Class B Preferred Stock shall be payable pari passu as to other classes or series of preferred stock of the Corporation (for the purposes of this Section I, hereinafter referred to as "Other Preferred Stock"), except as such Other Preferred Stock may be expressly stated to have a preferred or subordinated position as to dividends, and in preference to and priority to any payment of any dividends on the Common Stock.

3. Conversion. Each share of the Voting Class B Preferred Stock may, at the option of the holder thereof, be converted into fully paid and non-assessable shares of the Corporation's Common Stock at the initial rate (such initial rate, and such initial rate as adjusted from time to time as hereinafter provided, being referred to as the "Class B Conversion Ratio") of one share of Common Stock for each share of Voting Class B Preferred Stock. The initial conversion price for the Common Stock obtainable upon conversion of a share of Voting Class B Preferred Stock shall be $2.10 (as adjusted from time to time as hereinafter provided, the

"Class B Conversion Price"). The conversion of the shares of Voting Class B Preferred Stock shall be subject to the following terms and conditions:

(a) Any holder of shares of Voting Class B Preferred Stock desiring to convert such shares shall deliver the certificate representing the shares to be converted to the Secretary of the Corporation (at the office of the Corporation, at such location as the Corporation shall from time to time designate) together with a written notice (the "Class B Conversion Notice") that such holder desires to convert such shares, or any portion thereof, into Common Stock. Such conversion shall be deemed to have been effected on the date by which both the notice shall have been received by the Corporation and shares of Voting Class B Preferred Stock shall have been surrendered as hereinabove provided (the "Class B Conversion Date").

(b) As soon as practicable after the conversion of any Voting Class B Preferred Stock, the Corporation shall (i) cause to be issued certificates representing the number of shares of Common Stock issuable upon such conversion, (ii) pay to the holder of record of any shares of Voting Class B Preferred Stock so converted any declared but unpaid dividends thereon through the Class B Conversion Date, and (iii) return any unconverted shares.

(c) In order to protect the holders of Voting Class B Preferred Stock against dilution of their respective interests in

the Corporation, the Class B Conversion Ratio shall be adjusted such that the number of shares obtainable upon conversion shall be that number of shares of Common Stock as is obtained by dividing $2.10 by the adjusted per share Class B Conversion Price, rounded to the nearest 1/1000th of a share of Common Stock, if any of the following subparagraphs are applicable:

(i) If the Corporation shall, at any time after the original issuance of Voting Class B Preferred Stock issue or sell any shares of Common Stock (including shares held in the Corporation's treasury) or securities convertible into or exchanged for shares of Common Stock, other than pursuant to options, warrants and rights outstanding prior to or at the same time as the original issuance of Voting Class B Preferred Stock or the exercise of options taken into account under clause (C) of this subparagraph (i) or under subparagraph (ii) hereof, without consideration or for a consideration per share less than the Class B Conversion Price in effect immediately prior to the issuance or sale of such shares, except for issuance of additional shares of Common Stock as a dividend or other distribution on the Common Stock pursuant to clauses (D) and (E) of this subparagraph (i), (each such issuance or sale of Common Stock being referred to herein as a "Class B Dilutive Issuance"), then and thereafter successively upon each Class B Dilutive Issuance, the Class B Conversion Price in effect immediately prior to each Class B Dilutive Issuance shall forthwith be reduced as follows:

(I) if either (x) the Corporation shall have secured financing prior to, or in connection with, such Class B Dilutive Issuance, resulting in proceeds to the Corporation within any three-month period of an amount in excess of $2,600,000, in exchange for the issuance within such three-month period of Common Stock of the Corporation for a consideration per share in excess of $2.10 (a "Class B Qualified Financing"), or (y) the Corporation effects an underwritten public offering of its securities or (z) such Class B Dilutive Issuance is at a price equal to or in excess of $2.00 per share, then the Class B Conversion Price shall be reduced to a price (rounded to the nearest one-tenth of one cent) determined by dividing:

(1) an amount equal to the sum of (x) the total number of shares of Common Stock outstanding immediately prior to such Class B Dilutive Issuance multiplied by the Class B Conversion Price in effect immediately prior to such Class B Dilutive Issuance, and (y) the aggregate consideration, if any, received by the Corporation upon such Class B Dilutive Issuance, by (2) the total number of shares of Common Stock outstanding immediately after such Class B Dilutive Issuance.

(II) if the Corporation shall not have secured a Class B Qualified Financing and if such Class B Dilutive Issuance is at a price lower than $2.00 per share, then, the

Class B Conversion Price shall be reduced to a price (rounded to the nearest one-tenth of one percent) equal to the per share consideration received by the Company in such Class B Dilutive Issuance.

The Class B Conversion Price, as it may be adjusted downward hereunder from time to time, shall in no event be increased, except as provided in Subsection 3(c)(i)(C) or 3(f). For purposes of this subparagraph (i), the following provisions shall be applicable:

(A) In the case of the issuance or sale of shares of Common Stock for a consideration part or all of which shall be cash, the amount of the cash consideration therefor shall be deemed to be the amount of cash received by the Corporation for such shares (or, if shares of Common Stock are offered by the Corporation for subscription, the subscription price, or, if shares of Common Stock shall be sold to underwriters or dealers, the public offering price) before deducting therefrom any compensation paid or discount allowed in the sale, underwriting or purchase thereof by underwriters or dealers or others performing similar services or any expenses incurred in connection therewith.

(B) In the case of the issuance or sale (otherwise than as a dividend or other distribution on any stock of the Corporation or on conversion or exchange of other securities of the Corporation) of shares of Common Stock for a considera-

tion part or all of which shall be other than cash, the amount of the consideration therefor other than cash shall be conclusively deemed to be the value of such consideration, as determined by the Board of Directors, at or about the date of the adoption of the resolution authorizing such issuance, irrespective of accounting treatment. In case any shares of Common Stock shall be issued together with other stock or securities or other assets of the Corporation for a consideration which includes both, the Board of Directors of the Corporation shall conclusively determine what part of the consideration so received is to be deemed to be consideration for the issue of such shares of Common Stock.

(C) Subject to subparagraph (ii) of this paragraph (c), if the Corporation shall, at any time after the date of the issuance of the Voting Class B Preferred Stock issue options, warrants or rights to subscribe for shares of Common Stock (including shares held in the Corporation's treasury), or issue any securities (other than the Voting Class B Preferred Stock) convertible into or exchangeable for shares of Common Stock, without consideration or for a consideration per share of Common Stock less than the Class B Conversion Price in effect immediately prior to the issuance of such options or warrants or rights or convertible or exchangeable securities, the Class B Conversion Price in effect immediately prior to the issuance of such options or warrants

or rights to securities thereupon shall be reduced to a price determined in accordance with the provisions of subparagraph (i) of this paragraph (c); provided, however, that:

(1) the aggregate maximum number of shares of Common Stock deliverable under such options, warrants or rights shall be considered to have been delivered at the time such options, warrants or rights were issued, and for a consideration equal to the minimum purchase price per share of Common Stock provided for in such options or rights, plus the consideration received on the sale of Common Stock, if any, received by the Corporation for such options, warrants or rights;

(2) the aggregate maximum number of shares of Common Stock deliverable upon conversion of or exchange for any such securities shall be considered to have been delivered at the time of issuance of such securities, and for a consideration equal to the consideration (determined in the same manner as consideration received on the issue or sale of Common Stock) received by the Corporation upon the exchange or conversion thereof; and

(3) on the expiration of such options, warrants or rights, or the termination of such right to convert or exchange, the Class B Conversion Price shall forthwith be readjusted to such Class B Conversion Price as would have been obtained had the adjustments made upon the issuance of

such options, warrants, rights or convertible or exchangeable securities been made upon the basis of the delivery of only the number of shares of Common Stock actually delivered upon the exercise of such options, warrants or rights or upon conversion or exchange of such securities.

(D) In the case of the issuance of additional shares of Common Stock as a dividend or other distribution on the Common Stock, the Class B Conversion Price in effect immediately prior to such issuance shall be decreased in inverse proportion to the percentage increase in the number of shares outstanding by virtue of such issuance, and the aggregate number of shares of Common Stock issued in payment of such dividend or distribution shall be deemed to have been issued without consideration. Shares of Common Stock issued as a dividend or distribution on any stock of the Corporation shall be deemed to have been issued and to be outstanding at the close of business on the record date fixed for the determination of stockholders entitled to such dividend or distribution. In the event of a declaration of a dividend or other distribution on any stock of the Corporation by the Corporation without the fixing of a record date for the determination of stockholders entitled thereto, the first business day during which the stock transfer books of the Corporation shall be closed for the purpose of such determination shall be deemed to be the record date fixed for

the determination of stockholders entitled to such dividend or distribution.

(E) The exchange of any obligations or any stock of the Corporation after the issuance of the Voting Class B Preferred Stock pursuant to any recapitalization of the Corporation, into securities, including Common Stock, shall be deemed to involve the issuance of Common Stock or securities convertible into Common Stock, immediately prior to the close of business on the date fixed for the determination of persons entitled to receive such Common Stock, for consideration equal to the total of (i) the amount of consideration received by the Corporation upon the original issue of such obligations or stock and (ii) the consideration, if any, other than the obligations or stock, received by the Corporation upon such exchange. If obligations or stock of the same class or series of a class as the obligations or stock so exchanged have been originally issued for different amounts of consideration, then the amount of consideration received by the Corporation upon the original issue of the obligations or stock exchanged shall be deemed to be the average amount of the consideration received by the Corporation upon the original issue of all such obligations or stock. The amount of the consideration received by the Corporation upon such exchange shall be determined in the same manner provided by clauses (A) and (B)

of this subparagraph (i); provided, however, that if such obligations or stock shall have been issued as a dividend on the Common Stock, the Class B Conversion Price in effect immediately prior to such issuance shall be decreased in inverse proportion to the percentage increase in the number of shares outstanding by virtue of such issuance, and such obligation shall be deemed to have been issued without consideration.

(F) Shares of Common Stock issued otherwise than as a dividend or other distribution on the Common Stock of the Corporation, or otherwise than pursuant to the exchange of any securities of the Corporation, shall be deemed to have been issued and to be outstanding at the close of business on the date of issue.

(G) The number of shares of Common Stock at any time outstanding shall include any shares reacquired and then owned or held by or for the account of the Corporation and shall include the aggregate number of shares deliverable in respect of the options, warrants, rights and convertible and exchangeable securities (other than Voting Class B Preferred Stock), referred to in clause (C) of this subparagraph (i), at all times while such options, warrants, rights or securities are exchangeable, convertible or exercisable and remain outstanding and unexercised, unconverted or unexchanged, as the case may be.

(H) Upon the consummation of a firmly underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale by the Corporation of Common Stock to the public, all shares of Voting Class B Preferred Stock then outstanding shall be converted into such number of fully paid and nonassessable shares of Common Stock as is determined by Section I.3 hereof.

(ii) Anything in subparagraph (i) of this paragraph (c) to the contrary notwithstanding, the Corporation may issue (A) shares of Common Stock pursuant to any employee Incentive Stock Option Plan or similar stock option plan of the Corporation, and (B) shares, or options for shares, of Common Stock to employees and/or consultants of the Corporation, all such shares or options to be issued at such price or prices as the Corporation shall have determined or shall thereafter determine, and no adjustment in the Class B Conversion Price shall be made in respect of such shares (as adjusted for stock splits, stock dividends, etc.) in respect of the sale of such shares or the granting of options therefor; provided, however, that the option exercise price is not less than the fair market value of the Common Stock on the date of the option grant.

(iii) If the Corporation shall at any time subdivide or combine the outstanding shares of Common Stock, the Class B Conversion Price shall be proportionately decreased in the case

of such subdivision or increased in the case of such combination (on the date that such subdivision or combination shall become effective).

(iv) The Corporation may retain an Independent Accountant to make any computation required under this paragraph (c), and an Accountant's Certificate shall be presumptive evidence of the correctness of any computation made under this paragraph (c).

(v) Whenever the Class B Conversion Price is adjusted as herein provided, the Corporation shall forthwith send by first class United States mail to each holder of Voting Class B Preferred Stock at his address appearing on the record of holders of Voting Class B Preferred Stock (i) an Officer's Certificate showing in detail the facts requiring such adjustment, (ii) an Accountant's Certificate, if an Independent Accountant has been retained, and (iii) a notice stating that such adjustment has been effected and the adjusted Class B Conversion Ratio.

(vi) The Corporation shall give notice by first class United States mail to each holder of Voting Class B Preferred Stock on the record of holders of Voting Class B Preferred Stock at least 30 days in advance of the occurrence of any Class B Qualified Financing which will result in an adjustment to the Class B Conversion Price pursuant to subparagraph (i) of this Paragraph (c), stating the current Class B Conversion Price and estimating the Class B Conversion Price as it would be adjusted by such occurrence.

(d) The Corporation shall not be required to issue fractional shares of Common Stock upon conversion of Voting Class B Preferred Stock. If more than one share of Voting Class B Preferred Stock shall be surrendered for conversion at one time by the same holder, the number of full shares which shall be issuable upon conversion thereof shall be computed on the basis of the aggregate par value of all shares (or specified portions thereof) so surrendered. If any fraction of a share of Common Stock would, except for the provisions of this paragraph (d), be issuable on the conversion of any shares of Voting Class B Preferred Stock, the Corporation shall pay a cash adjustment in respect of such fraction, equal to the current value of such fraction (i) computed, if the Common Stock shall be listed, or admitted to unlisted trading privileges, on the American Stock Exchange or the New York Stock Exchange, on the basis of the last reported sale price of the Common Stock on the relevant exchange on the last business day prior to the date of conversion upon which such a sale shall have been effected, or (ii) computed, if the Common Stock shall not be so listed, or admitted to unlisted trading privileges, on the basis of the average of the high and low bid and asked prices for the Common Stock on the over-the-counter market in New York, New York, on the last business day prior to the date of conversion as reported by the National Association of Securities Dealers, Inc., or a successor thereto. If the Common Stock is not so listed, admitted to unlisted trading privileges or quoted, the current value of such fraction shall be conclusively determined by the Board of Directors.

(e) No adjustment shall be made for dividends on Voting Class B Preferred Stock surrendered for conversion, unless dividends have been declared but not paid on the date of such conversion, in which case the holder of such shares to be converted shall be entitled to payment of such dividends in accordance with Section I.2 hereof.

(f) In case of any reclassification, change, subdivision or combination of outstanding shares of the class of Common Stock issuable upon conversion of the Voting Class B Preferred Stock, or in case of any consolidation of the Corporation with, or merger of the Corporation into, another corporation (other than a merger with a subsidiary in which the Corporation is the continuing corporation and which does not result in any reclassification or change of outstanding shares of Common Stock issuable upon conversion of the Voting Class B Preferred Stock), or in case of any sale or conveyance to another corporation of the property of the Corporation as an entirety or substantially as an entirety, each share of Voting Class B Preferred Stock shall thereafter be convertible into the kind and amount of shares of stock and other securities and property receivable upon such reclassification, change, consolidation, merger, sale or conveyance by a holder of the number of shares of Common Stock into which such shares of Voting Class B Preferred Stock could have been converted immediately prior to such reclassification, change, consolidation, merger, sale or conveyance. In any case, appropriate adjustment (as conclusively determined by the Board

of Directors) shall be made in the application of the provisions herein set forth with respect to the rights and interests thereafter of the holders of Voting Class B Preferred Stock. The above provisions of this paragraph shall similarly apply to successive reclassifications and changes of shares of Common Stock and to successive consolidations, mergers, sales and conveyances.

(g) As long as any of the Voting Class B Preferred Stock remains outstanding, the Corporation shall take all steps necessary to reserve and keep available a number of its authorized but unissued Common Stock sufficient for issuance upon conversion of all such outstanding shares of Voting Class B Preferred Stock.

(h) In case of the voluntary dissolution, liquidation, or winding up of the Corporation, all conversion rights of the holders of shares of the Voting Class B Preferred Stock shall terminate on a date fixed by the Board of Directors, but not more than 30 days prior to the record date for determining the holders of shares of the Common Stock entitled to receive any distribution upon such dissolution, liquidation, or winding up. The Corporation shall cause notice of the proposed action, and of the date of termination of conversion rights, to be mailed to the holders of record of Voting Class B Preferred Stock not later than 30 days prior to the date of such termination, and shall promptly give similar notice to each transfer agent for such Voting Class B Preferred Stock and for the Common Stock. Such

notice shall also state the Class B Conversion Ratio then in effect.

(i) All shares of Voting Class B Preferred Stock so converted shall be retired and shall assume the status of authorized and unissued shares of Voting Class B Preferred Stock.

(j) Upon the consummation of a firmly underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale by the Corporation of Common Stock to the public, at a price not less than $5.00 per share (as appropriately adjusted for stock splits, stock dividends, combinations or similar recapitalizations affecting the Common Stock) and which results in aggregate net cash proceeds to the Corporation of not less than $5,000,000 (the "Initial Public Offering"), all shares of Voting Class B Preferred Stock then outstanding shall, be converted into such number of fully paid and nonassessable shares of Common Stock as is determined by this Subsection 3.

4. Redemption

(a) On each of November 30, 1992, 1993, 1994 and 1995 (each such date shall be referred to as a "Class B Redemption Date"), and so long as any shares of Voting Class B Preferred Stock shall be outstanding, the Corporation shall (unless otherwise prevented by law) redeem, at an amount per share equal to $2.10, that number of shares of Voting Class B Preferred Stock equal to 25% of all shares of Voting Class B Preferred Stock outstanding on the first such Class B Redemption Date, provided, however, that on November 30, 1995 the Corporation shall redeem

all shares of Voting Class B Preferred Stock then outstanding. The redemption shall be pro rata based upon the number of outstanding shares of Voting Class B Preferred Stock then owned by each holder thereof. For purposes of the purchase or redemption of shares of Voting Class B Preferred Stock under this Subsection 4, the Corporation shall use cash out of any monies legally available therefor, after full payment or provision for payments of all dividends theretofore payable and unpaid on the shares of Voting Class B Preferred Stock.

(b) Notice of the redemption pursuant to this Subsection 4 shall be sent by first-class certified mail, return receipt requested, postage prepaid, to the holders of record of the shares of Voting Class B Preferred Stock so to be redeemed at their respective addresses as the same shall appear on the books of the Corporation. Such notice shall be mailed not less than 30 nor more than 60 days in advance of the Class B Redemption Date. At any time on or after the Class B Redemption Date, the holders of record of shares of Voting Class B Preferred Stock to be redeemed on such Class B Redemption Date shall be entitled to receive payment for their shares upon actual delivery to the Corporation or its agent of the certificates representing the shares to be redeemed. All shares of Voting Class B Preferred Stock redeemed by the Company pursuant to this Subsection 4 shall be retired by the Company and not reissued.

5. Liquidation. Upon liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, each holder of shares of Voting Class B Preferred Stock shall be enti-

tled to receive from the assets of the Corporation an amount equal to the sum of (x) $2.10 per share of Voting Class B Preferred Stock registered in his name on the stock transfer books of the Corporation plus (y) an amount equal to the cumulative unpaid dividends to the date of such payment with respect to such shares of Voting Class B Preferred Stock, before any payments shall be made or any assets distributed to holders of shares of Common Stock. If, upon any such liquidation, dissolution or winding up of the Corporation, the assets of the Corporation are insufficient to pay the holders of shares of the Voting Class B Preferred Stock all amounts payable pursuant to the immediately preceding sentence, then all assets of the Corporation shall be distributed in proportion to the respective par values of the Voting Class B Preferred Stock and the Other Preferred Stock. Upon any such liquidation, dissolution or winding up, and after all amounts due to holders of shares of Voting Class B Preferred Stock or Other Preferred Stock and Other Preferred Stock are either paid or reserved for payment, the holders of shares of any other series or class of stock of the Corporation shall be entitled to receive any remaining assets of the Corporation in accordance with the Certificate of Incorporation and By-Laws of the Corporation.

II. Class C Preferred Stock shall have the following rights, preferences, privileges and qualifications, limitations or restrictions.

1. Subject to the provisions of this Paragraph Fourth, the Class C Preferred Stock may be issued from time to time in one or

more series, each of such series to have such voting powers, designations, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions thereof as are stated and expressed herein, or in a resolution or resolutions providing for the issue of such series adopted by the Board of Directors as hereinafter provided.

2. Authority is hereby granted to the Board of Directors, subject to the provisions of this Article Fourth, to create one or more series of Class C Preferred Stock and, with respect to each such series, to fix by resolution or resolutions providing for the issue of such series:

(a) the number of shares to constitute such series and the distinctive designation thereof;

(b) the dividend rate on the shares of such series, any dividend preference, the dividend payment dates, the periods in respect of which dividends are payable ("dividend period"), whether such dividends shall be cumulative and, if cumulative, the date or dates from which dividends shall accumulate;

(c) whether the shares of such series shall be redeemable and, if redeemable, on what terms, including the redemption price or prices which the shares of such series shall be entitled to receive upon the redemption thereof;

(d) whether the shares of such series shall be subject to the operation of retirement or sinking funds to be applied to the purchase or redemption of such shares for retirement and, if such retirement or sinking fund or funds be established, the

amount thereof and the terms and provisions relative to the operation thereof;

(e) whether the shares of such series shall be convertible into, or exchangeable for, shares of any other class or classes or any series of the same or any other class or classes of stock of the Corporation and the conversion price or prices or rate or rates, or the rate or rates at which such exchange may be made, with such adjustments, if any, as shall be stated and expressed or provided in such resolution or resolutions;

(f) the preferences, if any, and the amounts thereof, which the shares of such series shall be entitled to receive upon the voluntary or involuntary dissolution, liquidation or winding up of the Corporation;

(g) the voting power, if any, of the shares of such series; and

(h) such other terms, conditions, special rights and provisions as may be deemed advisable by the Board of Directors. Notwithstanding the fixing of the number of shares constituting a particular series upon the issuance thereof, the Board of Directors at any time thereafter may authorize the issuance of additional shares of the same series.

FIFTH: The Corporation shall indemnify in the manner and to the extent permitted by law, any person or that person's Testator or intestate successor made or threatened to be made a party to any action or proceeding, whether domestic or foreign, civil or criminal, judicial or administrative, or federal or state, by reason of the fact that the person was a director or

officer of the Corporation or served any other corporation in any capacity at the request of the Corporation, in the manner and to the extent permitted by law.

SIXTH: A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the directors' duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law or (iv) for any transaction from which the director derived an improper personal benefit.

SEVENTH: The Board of Directors of the Corporation shall have the power to adopt, amend or repeal the By-Laws of the Corporation."

6. This Third Restated Certificate of Incorporation was duly adopted in accordance with the provisions of Section 245 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said T Cell Sciences, Inc. has caused this Certificate to be signed by James D. Grant, its Chairman of the Board and Chief Executive Officer, and attested to by Stephen H. Lewis, its Secretary, this 6th day of November, 1990.

James D. Grant,
Chairman of the Board and
Chief Executive Officer

ATTEST:

By: _____

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 11:00 AM 10/09/1992
922875008 - 2023075

CERTIFICATE OF AMENDMENT

OF

THIRD RESTATED

CERTIFICATE OF INCORPORATION

OF

T CELL SCIENCES, INC.

T CELL SCIENCES, INC., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

FIRST: The first paragraph of Article FOURTH of the Third Restated Certificate of Incorporation of the Corporation is hereby amended to read in its entirety as follows:

"FOURTH: The aggregate number of shares which the Corporation shall have authority to issue is fifty-four million, one hundred and sixty-three thousand, one hundred and two (54,163,102) shares which may be issued in three classes as follows: (a) fifty million (50,000,000) shares of Common Stock, par value One Tenth of One Cent ($.001) per share ("Common Stock"); (b) one million, one hundred sixty-three thousand, one hundred and two (1,163,102) shares of Class B Preferred Stock, (heretofore issued and designated as Series B), par value Two Dollars ($2.00) per share ("Voting Class B Preferred Stock"); and (c) three million (3,000,000) shares of Class C Preferred Stock, par value One Cent ($.01) per share ("Class C Preferred Stock")."

SECOND: The amendment of the Third Restated Certificate of Incorporation set forth herein, was duly authorized by resolution of the Corporation's Board of Directors and was considered and duly authorized by the stockholders of the Corporation at the Annual Meeting of Stockholders of the Corporation duly called and held upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware.

THIRD: Such amendment was duly adopted in accordance with the applicable provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Amendment of the Third Restated Certificate of Incorporation of the Corporation, this 7th day of October, 1992, and affirmed that the statements contained herein are true.

T CELL SCIENCES, INC.

By: Alan W. Tuck
Alan W. Tuck,
President and
Chief Executive Officer

ATTEST:

By: Thomas A. Hy
Secretary

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 01:00 PM 11/10/1994
944216553 - 2023075

CERTIFICATE OF DESIGNATIONS, PREFERENCES AND RIGHTS OF A SERIES OF PREFERRED STOCK

OF

T CELL SCIENCES, INC.

T CELL SCIENCES, INC., a corporation organized and existing under the General Corporation Law of the State of Delaware,

DOES HEREBY CERTIFY:

That, pursuant to authority conferred upon the Board of Directors by the Third Restated Certificate of Incorporation (as amended) of said corporation, and pursuant to the provisions of Section 151 of Title 8 of the Delaware Code of 1953, said Board of Directors, at a meeting duly held on November 10, 1994, adopted a resolution providing for the designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations or restrictions thereof, of a Series of the Class C Preferred Stock, which resolution is as follows:

See attached pages 2A-7A

VOTE OF DIRECTORS ESTABLISHING SERIES C-1 JUNIOR PARTICIPATING CUMULATIVE PREFERRED STOCK

of

T CELL SCIENCES, INC.

Pursuant to Section 151 of the General Corporation Law of the State of Delaware:

VOTED, that pursuant to authority conferred upon and vested in the Board of Directors by the Third Restated Certificate of Incorporation, as amended as of the date hereof (the "Certificate of Incorporation"), of T Cell Sciences, Inc. (the "Corporation"), the Board of Directors hereby establishes and designates a series of Class C Preferred Stock of the Corporation, and hereby fixes and determines the relative rights and preferences of the shares of such series, in addition to those set forth in the Certificate of Incorporation, as follows:

Section 1. Designation and Amount. The shares of such series shall be designated as "Series C-1 Junior Participating Cumulative Preferred Stock" (the "Series C-1 Preferred Stock"), and the number of shares initially constituting such series shall be 350,000; provided, however, that if more than a total of 350,000 shares of Series C-1 Preferred Stock shall be issuable upon the exercise of Rights (the "Rights") issued pursuant to the Shareholder Rights Agreement dated as of November 10, 1994, between the Corporation and State Street Bank and Trust Company, as Rights Agent (the "Rights Agreement"), the Board of Directors of the Corporation, pursuant to Section 151(g) of the General Corporation Law of the State of Delaware, shall direct by resolution or resolutions that a certificate be properly executed, acknowledged, filed and recorded, in accordance with the provisions of Section 103 thereof, providing for the total number of shares of Series C-1 Preferred Stock authorized to be issued to be increased (to the extent that the Certificate of Incorporation then permits) to the largest number of whole shares (rounded up to the nearest whole number) issuable upon exercise of such Rights.

Section 2. Dividends and Distributions.

(A) (i) Subject to the rights of the holders of any shares of any series of preferred stock (or any similar stock) ranking prior and superior to the Series C-1 Preferred Stock with respect to dividends, the holders of shares of Series C-1 Preferred Stock, in preference to the holders of shares of common stock and of any other junior stock, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable in cash on the first day of March, June, September and December

in each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series C-1 Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (a) $1.00 or (b) subject to the provisions for adjustment hereinafter set forth, 1000 times the aggregate per share amount of all cash dividends, and 1000 times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions other than a dividend payable in shares of common stock or a subdivision of the outstanding shares of common stock (by reclassification or otherwise), declared on the common stock since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series C-1 Preferred Stock. The multiple of cash and non-cash dividends declared on the common stock to which holders of the Series C-1 Preferred Stock are entitled, which shall be 1000 initially but which shall be adjusted from time to time as hereinafter provided, is hereinafter referred to as the "Dividend Multiple." In the event the Corporation shall at any time after November 10, 1994 (the "Rights Declaration Date") (i) declare or pay any dividend on common stock payable in shares of common stock, or (ii) effect a subdivision or combination or consolidation of the outstanding shares of common stock (by reclassification or otherwise than by payment of a dividend in shares of common stock) into a greater or lesser number of shares of common stock, then in each such case the Dividend Multiple thereafter applicable to the determination of the amount of dividends which holders of shares of Series C-1 Preferred Stock shall be entitled to receive shall be the Dividend Multiple applicable immediately prior to such event multiplied by a fraction, the numerator of which is the number of shares of common stock outstanding immediately after such event and the denominator of which is the number of shares of common stock that were outstanding immediately prior to such event.

(ii) Notwithstanding anything else contained in this paragraph (A), the Corporation shall, out of funds legally available for that purpose, declare a dividend or distribution on the Series C-1 Preferred Stock as provided in this paragraph (A) immediately after it declares a dividend or distribution on the common stock (other than a dividend payable in shares of common stock); provided that, in the event no dividend or distribution shall have been declared on the common stock during the period between any Quarterly Dividend Payment Date and the next subsequent Quarterly Dividend Payment Date, a dividend of $1.00 per share on the Series C-1 Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.

(B) Dividends shall begin to accrue and be cumulative on outstanding shares of Series C-1 Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares of Series C-1 Preferred Stock, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Series C-1 Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but

unpaid dividends shall not bear interest. Dividends paid on the shares of Series C-1 Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix in accordance with applicable law a record date for the determination of holders of shares of Series C-1 Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be not more than such number of days prior to the date fixed for the payment thereof as may be allowed by applicable law.

Section 3. Voting Rights. In addition to any other voting rights required by law, the holders of shares of Series C-1 Preferred Stock shall have the following voting rights:

(A) Subject to the provision for adjustment hereinafter set forth, each share of Series C-1 Preferred Stock shall entitle the holder thereof to 1000 votes on all matters submitted to a vote of the stockholders of the Corporation. The number of votes which a holder of a share of Series C-1 Preferred Stock is entitled to cast, which shall initially be 1000 but which may be adjusted from time to time as hereinafter provided, is hereinafter referred to as the "Vote Multiple." In the event the Corporation shall at any time after the Rights Declaration Date (i) declare or pay any dividend on common stock payable in shares of common stock, or (ii) effect a subdivision or combination or consolidation of the outstanding shares of common stock (by reclassification or otherwise than by payment of a dividend in shares of common stock) into a greater or lesser number of shares of common stock, then in each such case the Vote Multiple thereafter applicable to the determination of the number of votes per share to which holders of shares of Series C-1 Preferred Stock shall be entitled shall be the Vote Multiple immediately prior to such event multiplied by a fraction, the numerator of which is the number of shares of common stock outstanding immediately after such event and the denominator of which is the number of shares of common stock that were outstanding immediately prior to such event.

(B) Except as otherwise provided herein or by law, the holders of shares of Series C-1 Preferred Stock and the holders of shares of common stock and the holders of shares of any other capital stock of this Corporation having general voting rights, shall vote together as one class on all matters submitted to a vote of stockholders of the Corporation.

(C) Except as otherwise required by applicable law or as set forth herein, holders of Series C-1 Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of common stock as set forth herein) for taking any corporate action.

Section 4. Certain Restrictions.

(A) Whenever dividends or distributions payable on the Series C-1 Preferred Stock as provided in Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series C-1 Preferred Stock outstanding shall have been paid in full, the Corporation shall not:

(i) declare or pay dividends on, make any other distributions on, or redeem or purchase or otherwise acquire for consideration any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series C-1 Preferred Stock;

(ii) declare or pay dividends on or make any other distributions on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series C-1 Preferred Stock, except dividends paid ratably on the Series C-1 Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;

(iii) except as permitted in subsection 4(A)(iv) below, redeem, purchase or otherwise acquire for consideration shares of any stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series C-1 Preferred Stock, provided that the Corporation may at any time redeem, purchase or otherwise acquire shares of any such parity stock in exchange for shares of any stock of the Corporation ranking junior (either as to dividends or upon dissolution, liquidation or winding up) to the Series C-1 Preferred Stock; or

(iv) purchase or otherwise acquire for consideration any shares of Series C-1 Preferred Stock, or any shares of any stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series C-1 Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(B) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for consideration any shares of stock of the Corporation unless the Corporation could, under subsection (A) of this Section 4, purchase or otherwise acquire such shares at such time and in such manner.

Section 5. Reacquired Shares. Any shares of Series C-1 Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and cancelled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of preferred stock and may be reissued as part of a new series of preferred stock to be created by resolution or resolutions of the Board of Directors, subject to the conditions and restrictions on issuance set forth herein.

Section 6. Liquidation, Dissolution or Winding Up. Upon any liquidation (voluntary or otherwise), dissolution or winding up of the Corporation, no distribution shall be made (x)

to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series C-1 Preferred Stock unless, prior thereto, the holders of shares of Series C-1 Preferred Stock shall have received an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, plus an amount equal to the greater of (1) $1000.00 per share or (2) an aggregate amount per share, subject to the provision for adjustment hereinafter set forth, equal to 1000 times the aggregate amount to be distributed per share to holders of common stock, or (y) to the holders of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series C-1 Preferred Stock, except distributions made ratably on the Series C-1 Preferred Stock and all other such parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up. In the event the Corporation shall at any time after the Rights Declaration Date (i) declare or pay any dividend on common stock payable in shares of common stock, or (ii) effect a subdivision or combination or consolidation of the outstanding shares of common stock (by reclassification or otherwise than by payment of a dividend in shares of common stock) into a greater or lesser number of shares of common stock, then in each such case the aggregate amount per share to which holders of shares of Series C-1 Preferred Stock were entitled immediately prior to such event under clause (x) of the preceding sentence shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of common stock outstanding immediately after such event and the denominator of which is the number of shares of common stock that were outstanding immediately prior to such event.

Neither the consolidation of nor merging of the Corporation with or into any other corporation or corporations, nor the sale or other transfer of all or substantially all of the assets of the Corporation, shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 6.

Section 7. Consolidation, Merger, etc. In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of common stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case the shares of Series C-1 Preferred Stock shall at the same time be similarly exchanged or changed in an amount per share (subject to the provision for adjustment hereinafter set forth) equal to 1000 times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of common stock is changed or exchanged, plus accrued and unpaid dividends, if any, payable with respect to the Series C-1 Preferred Stock. In the event the Corporation shall at any time after the Rights Declaration Date (i) declare or pay any dividend on common stock payable in shares of common stock, or (ii) effect a subdivision or combination or consolidation of the outstanding shares of common stock (by reclassification or otherwise than by payment of a dividend in shares of common stock) into a greater or lesser number of shares of common stock, then in each such case the amount set forth in the preceding sentence with respect to the exchange or change of shares of Series C-1 Preferred Stock shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of common stock outstanding immediately after such event and the denominator of which is the number of shares of common stock that were

outstanding immediately prior to such event.

Section 8. Redemption. The shares of Series C-1 Preferred Stock shall not be redeemable.

Section 9. Ranking. Unless otherwise provided in the Certificate of Incorporation or a Certificate of Vote of Directors Establishing a Class of Stock relating to a subsequently-designated series of preferred stock of the Corporation, the Series C-1 Preferred Stock shall rank junior to any other series of the Corporation's preferred stock subsequently issued, as to the payment of dividends and the distribution of assets on liquidation, dissolution or winding up and shall rank senior to the common stock.

Section 10. Amendment. The Certificate of Incorporation and this Certificate of Vote of Directors shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of the Series C-1 Preferred Stock so as to affect them adversely without the affirmative vote of the holders of two-thirds or more of the outstanding shares of Series C-1 Preferred Stock, voting separately as a class.

Section 11. Fractional Shares. Series C-1 Preferred Stock may be issued in whole shares or in any fraction of a share that is one one-thousandth (1/1000th) of a share or any integral multiple of such fraction, which shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series C-1 Preferred Stock. In lieu of fractional shares, the Corporation may elect to make a cash payment as provided in the Rights Agreement for fractions of a share other than one one-thousandth (1/1000th) of a share or any integral multiple thereof.

122590.c3

IN WITNESS WHEREOF, T CELL SCIENCES, INC. has caused this Certificate to be signed by Alan W. Tuck, its President, this 10th day of November, 1994.

Alan W Tuck

By: Alan W. Tuck
Title: President

125008.c1

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 12:00 PM 02/16/1995
950036259 - 2023075

CERTIFICATE OF CHANGE OF REGISTERED AGENT

AND

REGISTERED OFFICE

* * * * *

T Cell Sciences, Inc. , a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, DOES HEREBY CERTIFY:

The present registered agent of the corporation is United States Corporation Company and the present registered office of the corporation is in the county of Kent , Delaware

The Board of Directors of

adopted the following resolution on the 9th day of February, 1995.

Resolved, that the registered office of

in the state of Delaware be and it hereby is changed to Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, and the authorization of the present registered agent of this corporation be and the same is hereby withdrawn, and THE CORPORATION TRUST COMPANY, shall be and is hereby constituted and appointed the registered agent of this corporation at the address of its registered office.

IN WITNESS WHEREOF, T Cell Sciences, Inc. has caused this statement to be signed by Pamela A. Hay, Esq. , its General Counsel & Secretary*, this 13th day of February, 1995.

General Counsel & Secretary
(Title)

*Any authorized officer or the chairman or Vice-Chairman of the Board of Directors may execute this certificate.

(DEL. - 264 - 6/15/94)

SECOND CERTIFICATE OF AMENDMENT
OF
THIRD RESTATED
CERTIFICATE OF INCORPORATION
OF
T CELL SCIENCES, INC.
(herein amended to AVANT Immunotherapeutics, Inc.)

T CELL SCIENCES, INC., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies that the Third Restated Certificate of Incorporation of the Corporation is hereby amended as follows:

1. The first paragraph of Article FIRST is hereby amended to read in its entirety as follows:

"FIRST: The name of the Corporation is: AVANT Immunotherapeutics, Inc.

2. The first paragraph of Article FOURTH is hereby amended to read in its entirety as follows:

"FOURTH: The total number of shares of capital stock which the Corporation shall have the authority to issue is 78,000,000 shares, of which (i) 75,000,000 shares shall be Common Stock, par value $.001 per share (the "Common Stock") and (ii) 3,000,000 shares shall be Preferred Stock, par value $.01 per share, all of which shall be designated Class C Preferred Stock ("Class C Stock") of which 350,000 shall be designated Series C-1 Junior Participating Cumulative Preferred Stock (the "Series C-1 Preferred Stock")."

3. The foregoing amendments were duly adopted in accordance with the applicable requirements of Section 242 of the Delaware General Corporation Law.

IN WITNESS WHEREOF, the Corporation has caused this Second Certificate of Amendment of the Third Restated Certificate of Incorporation to be signed by Una S. Ryan its President and Chief Executive Officer and attested by Norman W. Gorin its Chief Financial Officer this 21st day of August, 1998.

T CELL SCIENCES, INC.

By: Una S. Ryan
Name: Una S. Ryan
Its: President and Chief Executive Officer

ATTEST:

Norman W. Gorin
Name: Norman W. Gorin
Its: Chief Financial Officer

DOCSC\636372.6

SECOND CERTIFICATE OF AMENDMENT
OF
THIRD RESTATED
CERTIFICATE OF INCORPORATION
OF
T CELL SCIENCES, INC.
(herein amended to AVANT Immunotherapeutics, Inc.)

T CELL SCIENCES, INC., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies that the Third Restated Certificate of Incorporation of the Corporation is hereby amended as follows:

1. The first paragraph of Article FIRST is hereby amended to read in its entirety as follows:

"FIRST: The name of the Corporation is: AVANT Immunotherapeutics, Inc.

2. The first paragraph of Article FOURTH is hereby amended to read in its entirety as follows:

"FOURTH: The total number of shares of capital stock which the Corporation shall have the authority to issue is 78,000,000 shares, of which (i) 75,000,000 shares shall be Common Stock, par value $.001 per share (the "Common Stock") and (ii) 3,000,000 shares shall be Preferred Stock, par value $.01 per share, all of which shall be designated Class C Preferred Stock ("Class C Stock") of which 350,000 shall be designated Series C-1 Junior Participating Cumulative Preferred Stock (the "Series C-1 Preferred Stock")."

3. The foregoing amendments were duly adopted in accordance with the applicable requirements of Section 242 of the Delaware General Corporation Law.

IN WITNESS WHEREOF, the Corporation has caused this Second Certificate of Amendment of the Third Restated Certificate of Incorporation to be signed by Una S. Ryan its President and Chief Executive Officer and attested by Norman W. Gorin its Chief Financial Officer this 21st day of August, 1998.

T CELL SCIENCES, INC.

By: Una S. Ryan
Name: Una S. Ryan
Its: President and Chief Executive Officer

ATTEST:

Norman W. Gorin
Name: Norman W. Gorin
Its: Chief Financial Officer

DOCSC\636372.6

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 03:30 PM 12/30/1998
981508964 - 2023075

CERTIFICATE OF OWNERSHIP AND MERGER
MERGING
VIRUS RESEARCH INSTITUTE, INC.
INTO
AVANT IMMUNOTHERAPEUTICS, INC.
(PURSUANT TO SECTION 253 OF THE GENERAL CORPORATION LAW OF DELAWARE)

AVANT Immunotherapeutics, Inc., a Delaware corporation (the "Corporation"), does hereby certify:

FIRST: That the Corporation is incorporated pursuant to the General Corporation Law of the State of Delaware.

SECOND: That the Corporation owns all of the outstanding shares of each class of the capital stock of Virus Research Institute, Inc., a Delaware corporation ("VRI").

THIRD: That the Corporation, by the resolutions of its Board of Directors attached hereto as Exhibit A, duly adopted on the 18 day of December, 1998, determined to merge into itself VRI on the conditions set forth in such resolutions.

IN WITNESS WHEREOF, the Corporation has caused its corporate seal to be affixed and this certificate to be signed by Una S. Ryan, its authorized officer, this 18 day of December 1998.

AVANT IMMUNOTHERAPEUTICS, INC.

BY: Una S. Ryan
Una S. Ryan, President and
Chief Executive Officer

DOCSC\699977.1

EXHIBIT A

Merger with Virus Research Institute, Inc.

RESOLVED: That the Corporation merge into itself (the "Merger") Virus Research Institute, Inc., a Delaware corporation and wholly-owned subsidiary of the Corporation ("VRI"), with the Corporation being the surviving entity in the Merger and assuming all of VRI's obligations.

RESOLVED: That the President and Chief Executive Officer, Chief Financial Officer, Executive Chairman, any Vice President, Secretary and Assistant Secretary (collectively, the "Authorized Officers") are, and each of them hereby is, authorized to execute, acknowledge and file in the name and on behalf of the Corporation pursuant to Section 253, and any other applicable provisions, of the Delaware General Corporation Law a certificate of ownership and merger in the form presented to the Board of Directors and to take any and all other action deemed by any such Authorized Officer to be necessary or appropriate to effectuate the Merger, such Merger to be effective as of 11:59 p.m. Eastern Time on December 31, 1998 or such earlier time determined by any Authorized Officer.

General Authorizations

RESOLVED: To authorize, empower and direct the Authorized Officers, and each of them acting singly (i) to execute, enseal and deliver in the name of and on behalf of the Corporation any and all documents, agreements and instruments to effectuate any of the foregoing votes, all with such changes therein as any of such officers may deem necessary or desirable, and (ii) to take such action (including without limitation the filing of any and all applications and the payment of any and all filing fees and expenses), or to cause the Corporation or any other person to take such action as may in the judgment of the officer so acting be necessary or desirable in connection with, or in furtherance of, any of the foregoing votes; the execution and delivery of any such document, agreement or instrument or the taking of any such action shall be conclusive evidence of such officer's authority hereunder to so act.

RESOLVED: That any and all actions heretofore taken by any officer or director of the Corporation in connection with the Merger be, and each of them hereby is, ratified, confirmed and approved in all respects.

RESOLVED: To file this consent with the proceedings of the minutes of the Board of Directors of the Corporation.

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 03:00 PM 12/20/1999
991551102 - 2023075

CERTIFICATE OF OWNERSHIP AND MERGER

MERGING

T CELL DIAGNOSTICS, INC.

WITH AND INTO

AVANT IMMUNOTHERAPEUTICS, INC.

(Under Section 253 of the Delaware General Corporation Law)

AVANT Immunotherapeutics, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"),

DOES HEREBY CERTIFY:

FIRST: That the Corporation is incorporated pursuant to the General Corporation Law of the State of Delaware,

SECOND: That the Corporation owns all of the outstanding shares of the capital stock of T Cell Diagnostics, Inc. (the "Subsidiary"), a corporation incorporated pursuant to the General Corporation Law of the State of Delaware.

THIRD: That the Board of Directors of the Corporation did duly adopt and approve, by the unanimous written consent of its members, on the 19th day of November, 1999, the following resolutions proposing to merge the Subsidiary with and into the Corporation:

Merger Authorizations

RESOLVED: That the Corporation merge into itself (the "Merger") T Cell Diagnostics, Inc. a Delaware corporation and wholly-owned subsidiary of the Corporation (the "Subsidiary"), with the Corporation being the surviving entity in the Merger and assuming all of the Subsidiary's obligations;

RESOLVED: To approve and adopt the Certificate of Ownership and Merger (the "Certificate") prepared in connection with the Merger in substantially the form attached hereto as Exhibit A, and to approve such changes, if any, to the Certificate as may be deemed necessary and appropriate by the President, any Vice President, the Treasurer, the Assistant Treasurer, the Secretary and any Assistant Secretary of the Corporation (collectively, the "Authorized Officers"), or any of them acting singly,

and to authorize, empower and direct the Authorized Officers, and each of them acting singly, (i) to execute the Certificate in the name and on behalf of the Corporation and (ii) to deliver the Certificate to the Secretary of State of the State of Delaware, such execution and delivery thereof with any changes therein to be conclusive evidence of such Authorized Officer's authority to so act pursuant to this resolution and of such approval and adoption;

RESOLVED: To designate the effective time of the Merger as the 11:59 p.m. Eastern Time, December 31, 1999 or such earlier time as determined by any Authorized Officer;

General Authorizations

RESOLVED: To authorize the execution of this Unanimous Written Consent in Lieu of Meeting of Directors in counterparts, each of which shall be taken together as a single document;

RESOLVED: To direct the Secretary of the Corporation to file this Unanimous Written Consent in Lieu of Meeting of Directors with the minutes of the Board of Directors;

RESOLVED: To approve, ratify and confirm in all respects, any and all actions taken, or caused to be taken, by the officers, directors, employees and agents of the Corporation prior to the date hereof on behalf of the Corporation, in connection with the foregoing resolutions; and

RESOLVED: To authorize and direct the Authorized Officers, and each of them acting singly, in the name and on behalf of the Corporation, to take, or cause to be taken, any and all actions to execute and deliver any and all certificates, assignments, instruments or other documents, to do any and all things and to incur and pay any and all expenses that, in the judgment of such Authorized Officers or Officer, may be necessary or advisable to effectuate the foregoing votes, such execution and delivery by any such Authorized Officers or Officer of any such certificate, assignment, instrument or other document or the doing by them of any act (including the authorization of any change in any such certificate, assignment, instrument or other document) shall conclusively establish both the authority of such Authorized Officers or Officer so to do from the Corporation and the approval of the Board of Directors of the Corporation.

FOURTH: Anything herein or elsewhere to the contrary notwithstanding, this merger may be amended or terminated and abandoned by the Board of Directors of AVANT Immunotherapeutics, Inc. at any time prior to December 31, 1999.

FIFTH: That the effective time and date of this Certificate of Ownership and Merger shall be 11:59 p.m. Eastern Time, December 31, 1999.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, said AVANT Immunotherapeutics, Inc. has caused this Certificate to be signed by Una S. Ryan, its authorized officer, this 7th day of Dec., 1999.

AVANT IMMUNOTHERAPEUTICS, INC.

By: Una S. Ryan
Una S. Ryan, President and
Chief Executive Officer

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STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 02:30 PM 01/31/2001
010051674 – 2023075

CERTIFICATE OF OWNERSHIP AND MERGER OF SUBSIDIARY INTO PARENT

merging
POLMERIX, INC.,
a Delaware corporation
INTO
AVANT IMMUNOTHERAPEUTICS, INC.,
a Delaware corporation

(pursuant to Section 253 of the General Corporation Law of Delaware)

AVANT Immunotherapeutics, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Parent"),

DOES HEREBY CERTIFY:

FIRST: That the Parent is a corporation duly incorporated according to the General Corporation Law of the State of Delaware, the provisions of which permit the merger of a subsidiary corporation with and into its parent corporation.

SECOND: That the Parent owns all of the outstanding shares of each class of capital stock of Polmerix, Inc., a Delaware corporation (the "Subsidiary"), a corporation duly incorporated according to the General Corporation Law of the State of Delaware.

THIRD: That the Parent, by the following actions of its Board of Directors, effected by a written consent in lieu of special meeting of it's Board of Directors on the 30th day of January, 2001, determined to merge into itself the Subsidiary on the conditions set forth in such resolutions:

RESOLVED: That AVANT Immunotherapeutics, Inc. merge into itself its subsidiary, Polmerix, Inc. and assume all of said subsidiary's liabilities and obligations;

FURTHER RESOLVED: That the proposed Merger and the Agreement & Plan of Merger be, and they hereby are, recommended to the shareholders of the Subsidiary for approval as being in the best interests of the Subsidiary, that the proposed Merger and the Agreement & Plan of Merger be submitted for approval of the shareholders of the Subsidiary, and upon receipt of the approval of the shareholders of the Subsidiary, that the Merger and the Agreement & Plan of Merger be authorized and approved.

FURTHER RESOLVED: That, at the effective time of the Merger, each share of stock of the Subsidiary then outstanding, shall by virtue of the Merger and without any action on the part of any holder thereof, be canceled and all certificates evidencing such shares shall be surrendered to the Parent.

FURTHER RESOLVED: That the President and the Secretary of the Parent (the "Authorized Officers") be and they hereby are, directed to make, execute and acknowledge a Certificate of Ownership and Merger setting forth a copy of the resolution to merge said Polnerix, Inc. into AVANT Immunotherapeutics, Inc. and to assume this subsidiary's liabilities and obligations and to file the same in the office of the Secretary of State of Delaware, and that the Authorized Officers be, and they hereby are, authorized to take or cause to be taken such other action as they or either or them deem necessary of desirable in connection with the consummation of the merger and in connection therewith to execute and deliver any and all documents and to incur any and all expenses as then or any of them may deem necessary or desirable.

FOURTH: That the proposed Merger has been adopted, approved, certified, executed and acknowledged by the Parent and Subsidiary in accordance with the laws of the State of Delaware, under which these corporations are organized.

FIFTH: Anything herein or elsewhere to the contrary notwithstanding, this Merger may be amended or terminated and abandoned by the Board of Directors of the Subsidiary at any time prior to the date that this Certificate of Ownership and Merger filed with the Secretary of State becomes effective.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, AVANT Immunotherapeutics, Inc., a Delaware corporation, has caused this Certificate to be signed this 30th day of January, 2001.

AVANT IMMUNOTHERAPEUTICS, INC.,

By: Una S. Ryan
Una S. Ryan, Ph.D.
President and Chief Executive Officer

LIBC/1088345.1

THIRD CERTIFICATE OF AMENDMENT
OF
THIRD RESTATED
CERTIFICATE OF INCORPORATION
OF
AVANT IMMUNOTHERAPEUTICS, INC.

AVANT Immunotherapeutics, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify that:

FIRST: The first paragraph of Article FOURTH of the Third Restated Certificate of Incorporation, as amended, of the Corporation is hereby amended to read in its entirety as follows:

> "FOURTH: The total number of shares of capital stock which the Corporation shall have the authority to issue is 103,000,000 shares of which (i) 100,000,000 shares shall be common stock, par value $.001 per share (the "Common Stock") and (ii) 3,000,000 shares shall be preferred stock, par value $.01 per share, all of which shall be designated Class C Preferred Stock ("Class C Stock") of which 350,000 shall be designated Series C-1 Junior Participating Cumulative Preferred Stock (the "Series C-1 Preferred Stock")."

SECOND: The amendment of the Third Restated Certificate of Incorporation set forth herein was duly authorized by resolution of the Corporation's Board of Directors and was considered and duly authorized by the stockholders of the Corporation at the Annual Meeting of Stockholders of the Corporation duly called and held upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware.

THIRD: Such amendment was duly adopted in accordance with the applicable provisions of Section 242 of the General Corporation Law of the State of Delaware.

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 12:30 PM 04/22/2002
020254217 – 2023075

IN WITNESS WHEREOF, the undersigned has signed this Third Certificate of Amendment of the Third Restated Certificate of Incorporation of the Corporation, this 22nd day of April, 2002, and affirmed that the statements contained herein are true.

AVANT Immunotherapeutics, Inc.

By: Una S. Ryan
Name: Una S. Ryan
Title: President and Chief Executive Officer

ATTEST:

Name: Avery W. Catlin
Title: Chief Financial Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 12:23 PM 11/08/2004
FILED 12:23 PM 11/08/2004
SRV 040803475 - 2023075 FILE

CERTIFICATE OF ELIMINATION

OF

SERIES C-1 JUNIOR PARTICIPATING CUMULATIVE PREFERRED STOCK

OF

AVANT IMMUNOTHERAPEUTICS. INC.

(Pursuant to Section 151(g) of the
Delaware General Corporation Law)

AVANT Immunotherapeutics, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Company's") does hereby certify that the following resolutions respecting Series C-1 Junior Participating Cumulative Preferred Stock were duly adopted by the Corporation's Board of Directors:

> **RESOLVED**, that no shares of the Company's Series C-1 Junior Participating Cumulative Preferred Stock, par value $0.01 ("Existing C-1 Preferred Stock"), are outstanding and that no shares of the Existing C-1 Preferred Stock will be issued subject to the Certificate of Designations previously filed with respect to the Existing C-1 Preferred Stock; and
>
> **FURTHER RESOLVED**, that the Authorized Officers of the Company, be and each of them hereby is, authorized in the name and on behalf of the Company to execute and file with the Secretary of State of the State of Delaware a Certificate of Elimination pursuant to Section 151(g) of the Delaware General Corporation Law setting forth these resolutions, and any other documents that any of such officers deem necessary, desireable or appropriate, in order to eliminate from the Company's certificate of incorporation all matters set forth in the Certificate of Designations with respect to the Existing C-1 Preferred Stock.

In witness whereof, the Corporation has caused this Certificate to be signed by its duly authorized officer this 8th day of November, 2004.

AVANT IMMUNOTHERAPEUTICS, INC.

By:_____

Name Avery W. Catlin
Title Senior Vice President and
Chief Financial Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 12:23 PM 11/08/2004
FILED 12:24 PM 11/08/2004
SRV 040803476 - 2023075 FILE

CERTIFICATE OF DESIGNATIONS, PREFERENCES AND RIGHTS OF A SERIES OF PREFERRED STOCK

OF

AVANT IMMUNOTHERAPEUTICS, INC.

AVANT IMMUNOTHERAPEUTICS, INC., a corporation organized and existing under the General Corporation Law of the State of Delaware,

DOES HEREBY CERTIFY:

That, pursuant to authority conferred upon the Board of Directors by the Third Restated Certificate of Incorporation, as amended, of said corporation, and pursuant to the provisions of Section 151 of Title 8 of the Delaware Code of 1953, said Board of Directors, at a meeting duly held on November 5, 2004, adopted a resolution providing for the designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations or restrictions thereof, of a Series of Preferred Stock, which resolution is as follows:

See attached pages 2A-7A

VOTE OF DIRECTORS ESTABLISHING
SERIES C-1 JUNIOR PARTICIPATING CUMULATIVE
PREFERRED STOCK
of
AVANT IMMUNOTHERAPEUTICS, INC.

Pursuant to Section 151 of the General Corporation Law of the State of Delaware:

VOTED, that pursuant to authority conferred upon and vested in the Board of Directors by the Third Restated Certificate of Incorporation, as amended (the "Certificate of Incorporation"), of AVANT Immunotherapeutics, Inc. (the "Corporation"), the Board of Directors hereby establishes and designates a series of Preferred Stock of the Corporation, and hereby fixes and determines the relative rights and preferences of the shares of such series, in addition to those set forth in the Certificate of Incorporation, as follows:

Section 1. Designation and Amount. The shares of such series shall be designated as "Series C-1 Junior Participating Cumulative Preferred Stock" (the "Series C-1 Preferred Stock"), and the number of shares initially constituting such series shall be 150,000; provided, however, that if more than a total of 150,000 shares of Series C-1 Preferred Stock shall be issuable upon the exercise of Rights (the "Rights") issued pursuant to the Shareholder Rights Agreement dated as of November 5 2004, between the Corporation and EquiServe Trust Company, N.A., as Rights Agent (the "Rights Agreement"), the Board of Directors of the Corporation, pursuant to Section 151(g) of the General Corporation Law of the State of Delaware, may direct by resolution or resolutions that a certificate be properly executed, acknowledged, filed and recorded, in accordance with the provisions of Section 103 thereof, providing for the total number of shares of Series C-1 Preferred Stock authorized to be issued to be increased (to the extent that the Certificate of Incorporation then permits) to the largest number of whole shares (rounded up to the nearest whole number) issuable upon exercise of such Rights.

Section 2. Dividends and Distributions.

(A) (i) Subject to the rights of the holders of any shares of any series of preferred stock (or any similar stock) ranking prior and superior to the Series C-1 Preferred Stock with respect to dividends, the holders of shares of Series C-1 Preferred Stock, in preference to the holders of shares of common stock and of any other junior stock, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable in cash on the first day of March, June, September and December in each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series C-1 Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (a) $1.00 or (b) subject to the provisions for adjustment hereinafter set forth, 10,000 times the aggregate per share amount of all cash dividends, and 10,000 times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions

other than a dividend payable in shares of common stock or a subdivision of the outstanding shares of common stock (by reclassification or otherwise), declared on the common stock since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series C-1 Preferred Stock. The multiple of cash and non-cash dividends declared on the common stock to which holders of the Series C-1 Preferred Stock are entitled, which shall be 10,000 initially but which shall be adjusted from time to time as hereinafter provided, is hereinafter referred to as the "Dividend Multiple." In the event the Corporation shall at any time after November 5, 2004 (the "Rights Declaration Date") (i) declare or pay any dividend on common stock payable in shares of common stock, or (ii) effect a subdivision or combination or consolidation of the outstanding shares of common stock (by reclassification or otherwise than by payment of a dividend in shares of common stock) into a greater or lesser number of shares of common stock, then in each such case the Dividend Multiple thereafter applicable to the determination of the amount of dividends which holders of shares of Series C-1 Preferred Stock shall be entitled to receive shall be the Dividend Multiple applicable immediately prior to such event multiplied by a fraction, the numerator of which is the number of shares of common stock outstanding immediately after such event and the denominator of which is the number of shares of common stock that were outstanding immediately prior to such event.

(ii) Notwithstanding anything else contained in this paragraph (A), the Corporation shall, out of funds legally available for that purpose, declare a dividend or distribution on the Series C-1 Preferred Stock as provided in this paragraph (A) immediately after it declares a dividend or distribution on the common stock (other than a dividend payable in shares of common stock); provided that, in the event no dividend or distribution shall have been declared on the common stock during the period between any Quarterly Dividend Payment Date and the next subsequent Quarterly Dividend Payment Date, a dividend of $1.00 per share on the Series C-1 Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.

(B) Dividends shall begin to accrue and be cumulative on outstanding shares of Series C-1 Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares of Series C-1 Preferred Stock, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Series C-1 Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series C-1 Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix in accordance with applicable law a record date for the determination of holders of shares of Series C-1 Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be not more than

such number of days prior to the date fixed for the payment thereof as may be allowed by applicable law.

Section 3. Voting Rights. In addition to any other voting rights required by law, the holders of shares of Series C-1 Preferred Stock shall have the following voting rights:

(A) Subject to the provision for adjustment hereinafter set forth, each share of Series C-1 Preferred Stock shall entitle the holder thereof to 10,000 votes on all matters submitted to a vote of the stockholders of the Corporation. The number of votes which a holder of a share of Series C-1 Preferred Stock is entitled to cast, which shall initially be 10,000 but which may be adjusted from time to time as hereinafter provided, is hereinafter referred to as the "Vote Multiple." In the event the Corporation shall at any time after the Rights Declaration Date (i) declare or pay any dividend on common stock payable in shares of common stock, or (ii) effect a subdivision or combination or consolidation of the outstanding shares of common stock (by reclassification or otherwise than by payment of a dividend in shares of common stock) into a greater or lesser number of shares of common stock, then in each such case the Vote Multiple thereafter applicable to the determination of the number of votes per share to which holders of shares of Series C-1 Preferred Stock shall be entitled shall be the Vote Multiple immediately prior to such event multiplied by a fraction, the numerator of which is the number of shares of common stock outstanding immediately after such event and the denominator of which is the number of shares of common stock that were outstanding immediately prior to such event.

(B) Except as otherwise provided herein or by law, the holders of shares of Series C-1 Preferred Stock and the holders of shares of common stock and the holders of shares of any other capital stock of this Corporation having general voting rights, shall vote together as one class on all matters submitted to a vote of stockholders of the Corporation.

(C) Except as otherwise required by applicable law or as set forth herein, holders of Series C-1 Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of common stock as set forth herein) for taking any corporate action.

Section 4. Certain Restrictions.

(A) Whenever dividends or distributions payable on the Series C-1 Preferred Stock as provided in Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series C-1 Preferred Stock outstanding shall have been paid in full, the Corporation shall not:

(i) declare or pay dividends on, make any other distributions on, or redeem or purchase or otherwise acquire for consideration any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series C-1 Preferred Stock;

(ii) declare or pay dividends on or make any other distributions on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding

up) with the Series C-1 Preferred Stock, except dividends paid ratably on the Series C-1 Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;

(iii) except as permitted in subsection 4(A)(iv) below, redeem, purchase or otherwise acquire for consideration shares of any stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series C-1 Preferred Stock, provided that the Corporation may at any time redeem, purchase or otherwise acquire shares of any such parity stock in exchange for shares of any stock of the Corporation ranking junior (either as to dividends or upon dissolution, liquidation or winding up) to the Series C-1 Preferred Stock; or

(iv) purchase or otherwise acquire for consideration any shares of Series C-1 Preferred Stock, or any shares of any stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series C-1 Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(B) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for consideration any shares of stock of the Corporation unless the Corporation could, under subsection (A) of this Section 4, purchase or otherwise acquire such shares at such time and in such manner.

Section 5. Reacquired Shares. Any shares of Series C-1 Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and canceled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of preferred stock and may be reissued as part of a new series of preferred stock to be created by resolution or resolutions of the Board of Directors, subject to the conditions and restrictions on issuance set forth herein.

Section 6. Liquidation, Dissolution or Winding Up. Upon any liquidation (voluntary or otherwise), dissolution or winding up of the Corporation, no distribution shall be made (x) to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series C-1 Preferred Stock unless, prior thereto, the holders of shares of Series C-1 Preferred Stock shall have received an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, plus an amount equal to the greater of (1) $10,000.00 per share or (2) an aggregate amount per share, subject to the provision for adjustment hereinafter set forth, equal to 10,000 times the aggregate amount to be distributed per share to holders of common stock, or (y) to the holders of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series C-1 Preferred Stock, except distributions made ratably on the Series C-1 Preferred Stock and all other such parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up. In the event the Corporation shall at

any time after the Rights Declaration Date (i) declare or pay any dividend on common stock payable in shares of common stock, or (ii) effect a subdivision or combination or consolidation of the outstanding shares of common stock (by reclassification or otherwise than by payment of a dividend in shares of common stock) into a greater or lesser number of shares of common stock, then in each such case the aggregate amount per share to which holders of shares of Series C-1 Preferred Stock were entitled immediately prior to such event under clause (x) of the preceding sentence shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of common stock outstanding immediately after such event and the denominator of which is the number of shares of common stock that were outstanding immediately prior to such event.

Neither the consolidation of nor merging of the Corporation with or into any other corporation or corporations, nor the sale or other transfer of all or substantially all of the assets of the Corporation, shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 6.

Section 7. Consolidation, Merger, etc. In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of common stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case the shares of Series C-1 Preferred Stock shall at the same time be similarly exchanged or changed in an amount per share (subject to the provision for adjustment hereinafter set forth) equal to 10,000 times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of common stock is changed or exchanged, plus accrued and unpaid dividends, if any, payable with respect to the Series C-1 Preferred Stock. In the event the Corporation shall at any time after the Rights Declaration Date (i) declare or pay any dividend on common stock payable in shares of common stock, or (ii) effect a subdivision or combination or consolidation of the outstanding shares of common stock (by reclassification or otherwise than by payment of a dividend in shares of common stock) into a greater or lesser number of shares of common stock, then in each such case the amount set forth in the preceding sentence with respect to the exchange or change of shares of Series C-1 Preferred Stock shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of common stock outstanding immediately after such event and the denominator of which is the number of shares of common stock that were outstanding immediately prior to such event.

Section 8. Redemption. The shares of Series C-1 Preferred Stock shall not be redeemable; provided, however, that the foregoing shall not limit the ability of the Corporation to purchase or otherwise deal in such shares to the extent otherwise permitted hereby and by law.

Section 9. Ranking. Unless otherwise expressly provided in the Certificate of Incorporation or a Certificate of Designations relating to any other series of preferred stock of the Corporation, the Series C-1 Preferred Stock shall rank junior to every other series of the Corporation's preferred stock previously or hereafter authorized, as to the payment of dividends and the distribution of assets on liquidation, dissolution or winding up and shall rank senior to the common stock.

Section 10. Amendment. The Certificate of Incorporation and this Certificate of Designations shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of the Series C-1 Preferred Stock so as to affect them adversely without the affirmative vote of the holders of two-thirds or more of the outstanding shares of Series C-1 Preferred Stock, voting separately as a class.

Section 11. Fractional Shares. Series C-1 Preferred Stock may be issued in whole shares or in any fraction of a share that is one ten-thousandth (1/10,000th) of a share or any integral multiple of such fraction, which shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series C-1 Preferred Stock. In lieu of fractional shares, the Corporation may elect to make a cash payment as provided in the Rights Agreement for fractions of a share other than one ten-thousandth (1/10,000th) of a share or any integral multiple thereof.

I, Avery W. Catlin, Senior Vice President and Chief Financial Officer, do make this certificate, hereby declaring and certifying that this is my act and deed on behalf of the Corporation this 9th of November, 2004.

By: Avery W. Catlin
Title: Senior Vice President and
Chief Financial Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:53 AM 03/07/2008
FILED 11:53 AM 03/07/2008
SRV 080293691 - 2023075 FILE

FOURTH CERTIFICATE OF AMENDMENT
OF THE
THIRD RESTATED
CERTIFICATE OF INCORPORATION
OF
AVANT IMMUNOTHERAPEUTICS, INC.

AVANT Immunotherapeutics, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify:

FIRST: That at a meeting of the Board of Directors of the Corporation on October 19, 2007 resolutions were duly adopted setting forth a proposed amendment of the Third Restated Certificate of Incorporation, as amended, of the Corporation, declaring such amendment to be advisable and calling a meeting of the stockholders of the Corporation for consideration thereof. The resolution setting forth the proposed amendment is as follows:

RESOLVED: That the first paragraph of Article FOURTH of the Third Restated Certificate of Incorporation, as amended, of the Corporation is hereby amended to read in its entirety as follows:

> "FOURTH: The total number of shares of capital stock which the Corporation shall have the authority to issue is 300,000,000 shares of which (i) 297,000,000 shares shall be common stock, par value $.001 per share (the "Common Stock") and (ii) 3,000,000 shares shall be preferred stock, par value $.01 per share, all of which shall be designated Class C Preferred Stock ("Class C Stock") of which 350,000 shall be designated Series C-1 Junior Participating Cumulative Preferred Stock (the "Series C-1 Preferred Stock")."

SECOND: The amendment of the Third Restated Certificate of Incorporation set forth herein was duly authorized by resolution of the Corporation's Board of Directors and was considered and duly authorized by the stockholders of the Corporation at the Annual Meeting of Stockholders of the Corporation duly called and held upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware at which meeting the necessary number of shares as required by statute were voted in favor of the amendment.

THIRD: That said amendment was duly adopted in accordance with the applicable provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, AVANT Immunotherapeutics, Inc., a Delaware corporation, has caused this Fourth Certificate of Amendment of the Third Restated Certificate of Incorporation of the Corporation to be signed this 7th day of March, 2008.

AVANT Immunotherapeutics, Inc.

By: Una S. Ryan
Name: Una S. Ryan, Ph.D.
Title: President and Chief Executive Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:53 AM 03/07/2008
FILED 11:54 AM 03/07/2008
SRV 080293699 - 2023075 FILE

FIFTH CERTIFICATE OF AMENDMENT
OF THE
THIRD RESTATED
CERTIFICATE OF INCORPORATION
OF
AVANT IMMUNOTHERAPEUTICS, INC.

AVANT Immunotherapeutics, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify:

FIRST: By unanimous written consent in lieu of a meeting of the Board of Directors of the Corporation dated as of January 15, 2008, resolutions were duly adopted setting forth a proposed amendment of the Third Restated Certificate of Incorporation, as amended, of the Corporation, declaring such amendment to be advisable and declaring that such amendment be considered at a meeting of the stockholders of the Corporation previously called at a meeting of the Board of Directors of the Corporation on October 19, 2007. The resolution setting forth the proposed amendment is as follows:

RESOLVED: The first two paragraphs of Article FOURTH of the Third Restated Certificate of Incorporation, as amended, of the Corporation are hereby amended to read in their entirety as follows:

> "FOURTH: "Effective upon the filing of this Certificate of Amendment of the Third Restated Certificate of Incorporation with the Secretary of State of the State of Delaware (the "Effective Date"), every twelve (12) to twenty (20) shares of the Corporation's Common Stock, par value $0.001 per share (the "Old Common Stock") then issued and outstanding or held in the treasury of the Corporation at the close of business on the Effective Date, the exact ratio within the twelve-to-twenty range to be determined by the board of directors of the Corporation prior to the Effective Date and publicly announced by the Corporation, shall automatically be combined into one (1) share of the Corporation's Common Stock, par value $0.001 per share (the "New Common Stock"), without any further action by the holders of such shares of Old Common Stock (and any fractional shares resulting from such exchange will not be issued but will be paid out in cash equal to such fraction multiplied by the closing price of the Corporation's Common Stock one (1) business day prior to the Effective Date). Each stock certificate representing shares of Old Common Stock shall thereafter represent that number of shares of New Common Stock into which the shares of Old Common Stock represented by such certificate shall have been combined; provided, however, that each person holding of record a stock certificate or certificates that represented shares of Old Common Stock shall receive, upon surrender of such certificate or certificates, a new certificate or certificates evidencing and representing the number of shares of New Common Stock to which such person

is entitled. The Company shall not be obligated to issue certificates evidencing the shares of New Common Stock issuable as set forth above unless certificates evidencing such shares of Old Common Stock are either delivered to the Company, or the holder notifies the Company that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company to indemnify the Company from any loss incurred by it in connection therewith. The New Common Stock issued in this exchange shall have the same rights, preferences and privileges as the Common Stock (as defined below).

The total number of shares of capital stock which the Corporation shall have the authority to issue is 300,000,000 shares of which (i) 297,000,000 shares shall be common stock, par value $.001 per share (the "Common Stock") and (ii) 3,000,000 shares shall be preferred stock, par value $.01 per share, all of which shall be designated Class C Preferred Stock ("Class C Stock") of which 350,000 shall be designated Series C-1 Junior Participating Cumulative Preferred Stock (the "Series C-1 Preferred Stock")."

SECOND: The amendment of the Third Restated Certificate of Incorporation set forth herein was duly authorized by resolution of the Corporation's Board of Directors and was considered and duly authorized by the stockholders of the Corporation at the Special Meeting of Stockholders of the Corporation duly called and held upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware at which meeting the necessary number of shares as required by statute were voted in favor of the amendment.

THIRD: That said amendment was duly adopted in accordance with the applicable provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, AVANT Immunotherapeutics, Inc., a Delaware corporation, has caused this Fifth Certificate of Amendment of the Third Restated Certificate of Incorporation of the Corporation to be signed this 7th day of March, 2008.

AVANT Immunotherapeutics, Inc.

By: Una S. Ryan
Name: Una S. Ryan, Ph.D.
Title: President and Chief Executive Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 02:26 PM 09/25/2008
FILED 02:23 PM 09/25/2008
SRV 080987253 - 2023075 FILE

CERTIFICATE OF AMENDMENT OF CERTIFICATE OF INCORPORATION OF AVANT IMMUNOTHERAPEUTICS, INC.

The corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware does hereby certify:

FIRST: That at a meeting of the Board of Directors of AVANT Immunotherapeutics, Inc. resolutions were duly adopted setting forth a proposed amendment of the Certificate of Incorporation of said corporation, declaring said amendment to be advisable and calling a meeting of the stockholders of said corporation for consideration thereof. The resolution setting forth the proposed amendment is as follows:

RESOLVED, that the Certificate of Incorporation of this corporation be amended by changing Article One of the Certificate of Incorporation so that, as amended, said Article shall be and read as follows:

"1. The name of the Corporation is Celldex Therapeutics, Inc."

SECOND: That thereafter, pursuant to resolution of its Board of Directors, said amendment was submitted for stockholder approval at an annual meeting of the stockholders of said corporation and held upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware at which meeting the necessary number of shares as required by statute were voted in favor of the amendment.

THIRD: That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

FOURTH. Section 1 of Article One of the Certificate of Incorporation of AVANT Immunotherapeutics, Inc. is hereby replaced in its entirety with the following:

"1. The name of the Corporation is Celldex Therapeutics, Inc."

FIFTH: The effective date of this Certificate of Amendment shall be October 1, 2008.

IN WITNESS WHEREOF, said corporation has caused this certificate to be signed this 25th day of September, 2008.

By: Anthony S Marucci
Authorized Officer
Title: President and Chief Executive Officer
Name: Anthony Marucci

State of Delaware
Secretary of State
Division of Corporations
Delivered 09:11 AM 12/31/2009
FILED 09:11 AM 12/31/2009
SRV 091153582 - 2023075 FILE

CERTIFICATE OF OWNERSHIP AND MERGER

MERGING

MEGAN HEALTH, INC.
(a Delaware corporation)

with and into

CELLDEX THERAPEUTICS, INC.
(a Delaware corporation)

Dated: December 31, 2009

Pursuant to Section 253 of the General Corporation Law of the State of Delaware (the "DGCL"), Celldex Therapeutics, Inc., a Delaware corporation ("Celldex"), does hereby certify the following information relating to the merger (the "Merger") of its wholly owned subsidiary, Megan Health, Inc., a Delaware corporation ("Megan"), with and into Celldex:

FIRST: The name and state of incorporation of each of the constituent corporations in the Merger are:

Name	State of Incorporation
Megan Health, Inc.	Delaware
Celldex Therapeutics, Inc.	Delaware

SECOND: Celldex is the owner of all of the outstanding shares of common stock, par value $0.001 per share (the "Common Stock"), of Megan. The Common Stock constitutes the sole outstanding class of capital stock of Megan.

THIRD: The board of directors of Celldex, by unanimous written consent without a meeting in accordance with Section 141(f) of the DGCL, duly adopted on December 16, 2009 the resolutions attached hereto as Exhibit A, which have not been amended or rescinded and are now in full force and effect, and Megan hereby merges with and into Celldex, with Celldex being the surviving corporation (the "Surviving Corporation").

FOURTH: The name of the Surviving Corporation shall be Celldex Therapeutics, Inc.

FIFTH: The Certificate of Incorporation of the Surviving Corporation shall not change as a result of the Merger.

SIXTH: The Merger will be effective upon filing of this Certificate of Ownership and Merger.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Celldex has caused this Certificate of Ownership and Merger to be executed by its duly authorized officer on the date first written above.

CELLDEX THERAPEUTICS, INC.

By: /s/ Anthony S. Marucci
Name: Anthony S. Marucci
Title: Chief Executive Officer

Exhibit A

CELLDEX THERAPEUTICS, INC.

Resolutions of the Board of Directors

Dated: December 16, 2009

Subsidiary Mergers

WHEREAS, Celldex is the owner of all of the outstanding shares of the common stock, par value $0.01 per share, of CuraGen Corporation (the "*CuraGen Common Stock*"); and

WHEREAS, the CuraGen Common Stock is the only class of capital stock of CuraGen Corporation ("*CuraGen*") outstanding; and

WHEREAS, Celldex is the owner of all of the outstanding shares of the common stock, par value $0.001 per share, of Megan Health, Inc. (the "*Megan Common Stock*"); and

WHEREAS, the Megan Common Stock is the only class of capital stock of Megan Health, Inc. ("*Megan*") outstanding.

NOW, THEREFORE, BE IT RESOLVED, that (i) CuraGen be merged with and into Celldex and (ii) Megan be merged with and into Celldex, with Celldex continuing as the surviving corporation in both such mergers (the "*Surviving Corporation*") and that the Surviving Corporation shall succeed to all rights, privileges, powers and franchises of CuraGen and Megan and shall assume all of the obligations of CuraGen and Megan (each a "*Merger*");

RESOLVED, any officer of Celldex shall execute and acknowledge a Certificate of Ownership and Merger pursuant to Section 253 of the DGCL setting forth a copy of these resolutions to merge CuraGen with and into Celldex and the date of adoption hereof, and shall file the same in the office of the Secretary of State of the State of Delaware and a certified copy thereof in the office of the Recorder of Deeds of New Castle County, and the Merger shall be effective upon the time and date specified in the Certificate of Ownership and Merger to be filed with the Secretary of State (such time and date specified in the Certificate of Ownership and Merger, the "*Effective Time*"), in accordance with Section 103 of the DGCL; and

RESOLVED, that at the Effective Time, each share of CuraGen Common Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, no longer be outstanding and shall be canceled and retired and shall cease to exist; and

RESOLVED, any officer of Celldex shall execute and acknowledge a Certificate of Ownership and Merger pursuant to Section 253 of the DGCL setting forth a copy of these resolutions to merge Megan with and into Celldex and the date of adoption hereof, and shall file

the same in the office of the Secretary of State of the State of Delaware and a certified copy thereof in the office of the Recorder of Deeds of New Castle County, and the Merger shall be effective upon the Effective Time, in accordance with Section 103 of the DGCL; and

RESOLVED, that at the Effective Time, each share of Megan Common Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, no longer be outstanding and shall be canceled and retired and shall cease to exist

Authorizations; General

WHEREAS, the Board of Directors wishes to authorize the officers of Celldex (the "*Authorized Officers*") to take such actions as may be necessary, desirable or advisable to carry out fully the intent and purposes of the foregoing resolutions;

NOW, THEREFORE, BE IT RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of Celldex, (i) to execute the Certificate of Ownership and Merger setting forth a copy of these resolutions to merge CuraGen with and into Celldex and the date of adoption hereof and (ii) to execute the Certificate of Ownership and Merger setting forth a copy of these resolutions to merge Megan with and into Celldex and the date of adoption hereof and to cause each of the same to be filed with the Secretary of State of the State of Delaware and a certified copy hereof to be filed in the office of the Recorder of Deeds of New Castle County;

RESOLVED, that the Authorized Officers be, and each of them individually hereby is, authorized, empowered and directed, in the name and on behalf of Celldex, to take or cause to be taken any and all such further actions, to execute and deliver or cause to be executed and delivered all such other documents, certificates, amendments, instruments and agreements, to make such filings, in the name and on behalf of Celldex, to incur and pay all such fees and expenses and to engage in such acts as they shall in their judgment determine to be necessary, desirable or advisable to carry out fully the intent and purposes of the foregoing resolutions and the execution by such Authorized Officer of any such documents, certificates, amendments, instruments or agreements or the payment of any such fees and expenses or the doing by them of any act in connection with the foregoing matters shall be conclusive evidence of their authority therefore and for the approval and ratification by Celldex of the documents, certificates, amendments, instruments and agreements so executed, the expenses so paid, the filings so made and the actions so taken; and

RESOLVED, that any and all actions heretofore taken, and any and all things heretofore done, by any officer or director of Celldex in connection with, or with respect to, the matters referred to in the foregoing resolutions be and hereby are confirmed as authorized and valid acts taken on behalf of Celldex.

State of Delaware
Secretary of State
Division of Corporations
Delivered 09:11 AM 12/31/2009
FILED 09:12 AM 12/31/2009
SRV 091153591 - 2023075 FILE

CERTIFICATE OF OWNERSHIP AND MERGER

MERGING

CURAGEN CORPORATION
(a Delaware corporation)

with and into

CELLDEX THERAPEUTICS, INC.
(a Delaware corporation)

Dated: December 31, 2009

Pursuant to Section 253 of the General Corporation Law of the State of Delaware (the "DGCL"), Celldex Therapeutics, Inc., a Delaware corporation ("Celldex"), does hereby certify the following information relating to the merger (the "Merger") of its wholly owned subsidiary, CuraGen Corporation, a Delaware corporation ("CuraGen"), with and into Celldex:

FIRST: The name and state of incorporation of each of the constituent corporations in the Merger are:

Name	State of Incorporation
CuraGen Corporation	Delaware
Celldex Therapeutics, Inc.	Delaware

SECOND: Celldex is the owner of all of the outstanding shares of common stock, par value $0.01 per share (the "Common Stock"), of CuraGen. The Common Stock constitutes the sole outstanding class of capital stock of CuraGen.

THIRD: The board of directors of Celldex, by unanimous written consent without a meeting in accordance with Section 141(f) of the DGCL, duly adopted on December 16, 2009 the resolutions attached hereto as Exhibit A, which have not been amended or rescinded and are now in full force and effect, and CuraGen hereby merges with and into Celldex, with Celldex being the surviving corporation (the "Surviving Corporation").

FOURTH: The name of the Surviving Corporation shall be Celldex Therapeutics, Inc.

FIFTH: The Certificate of Incorporation of the Surviving Corporation shall not change as a result of the Merger.

SIXTH: The Merger will be effective upon filing of this Certificate of Ownership and Merger.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Celldex has caused this Certificate of Ownership and Merger to be executed by its duly authorized officer on the date first written above.

CELLDEX THERAPEUTICS, INC.

By: /s/Anthony S. Marucci
Name: Anthony S. Marucci
Title: Chief Executive Officer

Exhibit A

CELLDEX THERAPEUTICS, INC.

Resolutions of the Board of Directors

Dated: December 16, 2009

Subsidiary Mergers

WHEREAS, Celldex is the owner of all of the outstanding shares of the common stock, par value $0.01 per share, of CuraGen Corporation (the "*CuraGen Common Stock*"); and

WHEREAS, the CuraGen Common Stock is the only class of capital stock of CuraGen Corporation ("*CuraGen*") outstanding; and

WHEREAS, Celldex is the owner of all of the outstanding shares of the common stock, par value $0.001 per share, of Megan Health, Inc. (the "*Megan Common Stock*"); and

WHEREAS, the Megan Common Stock is the only class of capital stock of Megan Health, Inc. ("*Megan*") outstanding.

NOW, THEREFORE, BE IT RESOLVED, that (i) CuraGen be merged with and into Celldex and (ii) Megan be merged with and into Celldex, with Celldex continuing as the surviving corporation in both such mergers (the "*Surviving Corporation*") and that the Surviving Corporation shall succeed to all rights, privileges, powers and franchises of CuraGen and Megan and shall assume all of the obligations of CuraGen and Megan (each a "*Merger*");

RESOLVED, any officer of Celldex shall execute and acknowledge a Certificate of Ownership and Merger pursuant to Section 253 of the DGCL setting forth a copy of these resolutions to merge CuraGen with and into Celldex and the date of adoption hereof, and shall file the same in the office of the Secretary of State of the State of Delaware and a certified copy thereof in the office of the Recorder of Deeds of New Castle County, and the Merger shall be effective upon the time and date specified in the Certificate of Ownership and Merger to be filed with the Secretary of State (such time and date specified in the Certificate of Ownership and Merger, the "*Effective Time*"), in accordance with Section 103 of the DGCL; and

RESOLVED, that at the Effective Time, each share of CuraGen Common Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, no longer be outstanding and shall be canceled and retired and shall cease to exist; and

RESOLVED, any officer of Celldex shall execute and acknowledge a Certificate of Ownership and Merger pursuant to Section 253 of the DGCL setting forth a copy of these resolutions to merge Megan with and into Celldex and the date of adoption hereof, and shall file

the same in the office of the Secretary of State of the State of Delaware and a certified copy thereof in the office of the Recorder of Deeds of New Castle County, and the Merger shall be effective upon the Effective Time, in accordance with Section 103 of the DGCL; and

RESOLVED, that at the Effective Time, each share of Megan Common Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, no longer be outstanding and shall be canceled and retired and shall cease to exist

Authorizations; General

WHEREAS, the Board of Directors wishes to authorize the officers of Celldex (the "*Authorized Officers*") to take such actions as may be necessary, desirable or advisable to carry out fully the intent and purposes of the foregoing resolutions;

NOW, THEREFORE, BE IT RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of Celldex, (i) to execute the Certificate of Ownership and Merger setting forth a copy of these resolutions to merge CuraGen with and into Celldex and the date of adoption hereof and (ii) to execute the Certificate of Ownership and Merger setting forth a copy of these resolutions to merge Megan with and into Celldex and the date of adoption hereof and to cause each of the same to be filed with the Secretary of State of the State of Delaware and a certified copy hereof to be filed in the office of the Recorder of Deeds of New Castle County;

RESOLVED, that the Authorized Officers be, and each of them individually hereby is, authorized, empowered and directed, in the name and on behalf of Celldex, to take or cause to be taken any and all such further actions, to execute and deliver or cause to be executed and delivered all such other documents, certificates, amendments, instruments and agreements, to make such filings, in the name and on behalf of Celldex, to incur and pay all such fees and expenses and to engage in such acts as they shall in their judgment determine to be necessary, desirable or advisable to carry out fully the intent and purposes of the foregoing resolutions and the execution by such Authorized Officer of any such documents, certificates, amendments, instruments or agreements or the payment of any such fees and expenses or the doing by them of any act in connection with the foregoing matters shall be conclusive evidence of their authority therefore and for the approval and ratification by Celldex of the documents, certificates, amendments, instruments and agreements so executed, the expenses so paid, the filings so made and the actions so taken; and

RESOLVED, that any and all actions heretofore taken, and any and all things heretofore done, by any officer or director of Celldex in connection with, or with respect to, the matters referred to in the foregoing resolutions be and hereby are confirmed as authorized and valid acts taken on behalf of Celldex.

State of Delaware
Secretary of State
Division of Corporations
Delivered 07:55 AM 12/31/2014
FILED 08:00 AM 12/31/2014
SRV 141604229 - 2023075 FILE

CERTIFICATE OF OWNERSHIP AND MERGER

MERGING

CELLDEX RESEARCH CORPORATION
(a Delaware corporation)

with and into

CELLDEX THERAPEUTICS, INC.
(a Delaware corporation)

Dated: December 31, 2014

Pursuant to Section 253 of the General Corporation Law of the State of Delaware (the "DGCL"), Celldex Therapeutics, Inc., a Delaware corporation (the "Corporation"), does hereby certify the following information relating to the merger (the "Merger") of its wholly owned subsidiary, Celldex Research Corporation, a Delaware corporation (the "Subsidiary"), with and into the Corporation, with the Corporation remaining as the surviving corporation:

FIRST: The name and state of incorporation of each of the constituent corporations in the Merger are:

Name	State of Incorporation
Celldex Research Corporation	Delaware
Celldex Therapeutics, Inc.	Delaware

SECOND: The Corporation is the owner of all of the outstanding shares of common stock, par value $0.01 per share (the "Common Stock"), of Subsidiary. The Common Stock constitutes the sole outstanding class of capital stock of Subsidiary.

THIRD: The board of directors of the Corporation at a meeting held on December 17, 2014 duly adopted the resolutions attached hereto as Exhibit A, which have not been amended or rescinded and are now in full force and effect, and Subsidiary hereby merges with and into the Corporation, with the Corporation being the Surviving Corporation (the "Surviving Corporation").

FOURTH: The name of the Surviving Corporation shall be Celldex Therapeutics, Inc.

FIFTH: The Certificate of Incorporation of the Corporation, as in effect immediately prior to the Merger, shall be the Certificate of Incorporation of the Surviving Corporation.

SIXTH: The Merger will be effective upon filing of this Certificate of Ownership and Merger with the Secretary of State of the State of Delaware.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Ownership and Merger to be executed by its duly authorized officer on the date first written above.

CELLDEX THERAPEUTICS, INC.

By: _____

Name: Anthony S. Marucci

Title: Chief Executive Officer

Exhibit A

CELLDEX THERAPEUTICS, INC.

Resolutions of the Board of Directors

Dated: December 17, 2014

Subsidiary Mergers

WHEREAS, Celldex Therapeutics, Inc. ("*Celldex Therapeutics*") is the owner of all of the outstanding shares of the common stock, par value $0.01 per share, of Celldex Research Corporation. (the "*Celldex Research Common Stock*"); and

WHEREAS, the Celldex Research Common Stock is the only class of capital stock of Celldex Research Corporation ("*Celldex Research*") outstanding; and

NOW, THEREFORE, BE IT RESOLVED, that Celldex Research be merged with and into Celldex Therapeutics and with Celldex Therapeutics continuing as the surviving corporation in such merger (the "*Surviving Corporation*") and that the Surviving Corporation shall succeed to all rights, privileges, powers and franchises of Celldex Research and shall assume all of the obligations of Celldex Research (a "*Merger*");

RESOLVED, any officer of Celldex Therapeutics shall execute and acknowledge a Certificate of Ownership and Merger pursuant to Section 253 of the DGCL setting forth a copy of these resolutions to merge Celldex Research with and into Celldex Therapeutics and the date of adoption hereof, and shall file the same in the office of the Secretary of State of the State of Delaware and a certified copy thereof in the office of the Recorder of Deeds of New Castle County, and the Merger shall be effective upon the time and date specified in the Certificate of Ownership and Merger to be filed with the Secretary of State (such time and date specified in the Certificate of Ownership and Merger, the "*Effective Time*"), in accordance with Section 103 of the DGCL; and

RESOLVED, that at the Effective Time, each share of Celldex Research Common Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, no longer be outstanding and shall be canceled and retired and shall cease to exist.

Authorizations; General

WHEREAS, the Board of Directors wishes to authorize the officers of Celldex Therapeutics (the "*Authorized Officers*") to take such actions as may be necessary, desirable or advisable to carry out fully the intent and purposes of the foregoing resolutions;

NOW, THEREFORE, BE IT RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of Celldex Therapeutics, to execute the Certificate of Ownership and Merger setting forth a copy of these resolutions to merge Celldex Research with and into Celldex Therapeutics and the date of adoption hereof and to cause the same to be filed with the Secretary of State of the State of Delaware and a certified copy hereof to be filed in the office of the Recorder of Deeds of New Castle County;

RESOLVED, that the Authorized Officers be, and each of them individually hereby is, authorized, empowered and directed, in the name and on behalf of Celldex Therapeutics, to take or cause to be taken any and all such further actions, to execute and deliver or cause to be executed and delivered all such other documents, certificates, amendments, instruments and agreements, to make such filings, in the name and on behalf of Celldex Therapeutics, to incur and pay all such fees and expenses and to engage in such acts as they shall in their judgment determine to be necessary, desirable or advisable to carry out fully the intent and purposes of the foregoing resolutions and the execution by such Authorized Officer of any such documents, certificates, amendments, instruments or agreements or the payment of any such fees and expenses or the doing by them of any act in connection with the foregoing matters shall be conclusive evidence of their authority therefore and for the approval and ratification by Celldex Therapeutics of the documents, certificates, amendments, instruments and agreements so executed, the expenses so paid, the filings so made and the actions so taken; and

RESOLVED, that any and all actions heretofore taken, and any and all things heretofore done, by any officer or director of Celldex Therapeutics in connection with, or with respect to, the matters referred to in the foregoing resolutions be and hereby are confirmed as authorized and valid acts taken on behalf of Celldex Therapeutics.

State of Delaware
Secretary of State
Division of Corporations
Delivered 08:02 AM 12/30/2016
FILED 08:02 AM 12/30/2016
SR 20167338679 - File Number 2023075

CERTIFICATE OF MERGER

FOR

KOLLTAN, LLC,
a Delaware limited liability company

WITH AND INTO

CELLDEX THERAPEUTICS, INC.,
a Delaware corporation

Dated: December 30, 2016

Pursuant to Section 264 of the Delaware General Corporation Law (the "**DGCL**") and Section 18-209 of the Delaware Limited Liability Company Act (the "**Act**"), the undersigned surviving corporation of the Merger (as defined below) submits this Certificate of Merger for filing and certifies that:

FIRST: The name of the surviving corporation is Celldex Therapeutics, Inc., a Delaware corporation (the "**Surviving Entity**"), and the name of the limited liability company being merged into this Surviving Entity is Kolltan, LLC, a Delaware limited liability company.

SECOND: An Agreement and Plan of Merger (the "**Merger Agreement**") providing for the merger (the "**Merger**") of Kolltan, LLC, a Delaware limited liability company, with and into Celldex Therapeutics, Inc., a Delaware corporation, has been approved, adopted, certified, executed and acknowledged by each of the constituent entities of the Merger in accordance with the requirements of Section 264 of the DGCL and Section 18-209 of the Act.

THIRD: The name of the surviving constituent entity of the Merger is Celldex Therapeutics, Inc.

FOURTH: The Certificate of Incorporation of the Surviving Entity shall be unchanged from its current Certificate of Incorporation.

FIFTH: This Certificate of Merger and the Merger contemplated hereby shall become effective on December 31, 2016 at 11:59 PM EST.

SIXTH: The executed Merger Agreement is on file at an office of the Surviving Entity, the address of which is 53 Frontage Road, Suite 200, Hampton, New Jersey 08827.

SEVENTH: A copy of the Merger Agreement will be furnished by the Surviving Entity, on request and without cost, to any member or stockholder of the constituent entities of the Merger.

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Merger to be duly signed as of the date first written above.

CELLDEX THERAPEUTICS, INC.

By: _____

Name: Avery W. Catlin
Title: Chief Financial Officer

CERTIFICATE OF OWNERSHIP AND MERGER

MERGING

ABIGAIL PHARMACEUTICALS, INC.;

BULLDOG PHARMACEUTICALS, INC.;

AND

ELTAM PHARMACEUTICALS, INC.

WITH AND INTO

CELLDEX THERAPEUTICS, INC.

State of Delaware
Secretary of State
Division of Corporations
Delivered 03:28 PM 05/19/2017
FILED 03:28 PM 05/19/2017
SR 20173764382 - File Number 2023075

Pursuant to Section 253 of the
General Corporation Law of the State of Delaware

Celldex Therapeutics, Inc., a Delaware corporation (the "Company"), does hereby certify to the following facts relating to the merger (the "Merger") of Abigail Pharmaceuticals, Inc. a British Virgin Islands company ("Abigail"), Bulldog Pharmaceuticals, Inc. a British Virgin Islands company ("Bulldog"), and Eltam Pharmaceuticals, Inc. a British Virgin Islands company ("Eltam"), with and into the Company, with the Company remaining as the surviving corporation:

FIRST: The Company is incorporated pursuant to the General Corporation Law of the State of Delaware (the "DGCL"). Each of Abigail, Bulldog and Eltam is incorporated pursuant to the laws of the British Virgin Islands.

SECOND: The Company owns all of the outstanding shares of each class of capital stock of each of Abigail, Bulldog and Eltam.

THIRD: The Board of Directors of the Company, by the following resolutions duly adopted on March 1, 2017, determined to merge each of Abigail, Bulldog and Eltam with and into the Company pursuant to Section 253 of the DGCL:

> WHEREAS, Celldex Therapeutics, Inc., a Delaware corporation (the "Company"), owns all of the outstanding shares of the capital stock of Abigail Pharmaceuticals, Inc., a British Virgin Islands company ("Abigail"), Bulldog Pharmaceuticals, Inc., a British Virgin Islands company ("Bulldog"), and Eltam Pharmaceuticals, Inc., a British Virgin Islands company ("Eltam"),; and
>
> WHEREAS, the Board of Directors of the Company has deemed it advisable that each of Abigail, Bulldog and Eltam be merged with and into the Company pursuant to Section 253 of the General Corporation Law of the State of Delaware.
>
> NOW, THEREFORE, BE IT AND IT HEREBY IS
>
> RESOLVED, that each of Abigail, Bulldog and Eltam be merged with and into the Company (the "Merger"); and it is further
>
> RESOLVED, that by virtue of the Merger and without any action on the part of the holder thereof, each then outstanding share of capital stock of the Company shall remain unchanged and continue to remain outstanding as one share of capital stock of the Company, held by the person who was the holder of such share of capital stock of the Company immediately prior to the Merger; and it is further
>
> RESOLVED, that by virtue of the Merger and without any action on the part of the holder thereof, each then outstanding share of capital stock of each of Abigail, Bulldog and Eltam shall be canceled and no consideration shall be issued in respect thereof; and it is further
>
> RESOLVED, that the proper officers of the Company be, and each hereby is, authorized and directed to make, execute and acknowledge, in the name and on behalf of the Company, a certificate of ownership and merger for the purpose of effecting the Merger and to file the same in the office of the Secretary of State of the State of Delaware, and to do all other acts and things that may be necessary to carry out and effectuate the purpose and intent of the resolutions relating to the Merger.

FOURTH: The Company shall be the surviving corporation of the Merger.

FIFTH: The certificate of incorporation of the Company as in effect immediately prior to the effective time of the Merger shall be the certificate of incorporation of the surviving corporation.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Company has caused this Certificate of Ownership and Merger to be executed by its duly authorized officer this 19 day of May, 2017.

Celldex Therapeutics, Inc.

By: _____

Name: Avery W. Catlin

Date: May 19, 2017

State of Delaware
Secretary of State
Division of Corporations
Delivered 08:00 AM 02/08/2019
FILED 08:00 AM 02/08/2019
SR 20190828896 - File Number 2023075

CERTIFICATE OF AMENDMENT OF

CERTIFICATE OF INCORPORATION

OF

CELLDEX THERAPEUTICS, INC.

(Pursuant to Section 242 of the Delaware General Corporation Law)

Celldex Therapeutics, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, does hereby certify as follows:

FIRST: That at a meeting of the Board of Directors of the Corporation on April 15, 2018 resolutions were duly adopted setting forth a proposed amendment to the Third Restated Certificate of Incorporation, as amended, of the Corporation, declaring such amendment to be advisable and calling a meeting of stockholders of the Corporation for consideration thereof. The resolution setting forth the proposed amendment is as follows:

RESOLVED, that the Certificate of Amendment of the Corporation be amended to effect a reverse stock split of the Corporation's common stock by adding the following paragraph to Article IV:

"Effective upon the effective time of this Certificate of Amendment of the Certificate of Incorporation with the Secretary of State of the State of Delaware (the "Split Effective Time"), the shares of Common Stock issued and outstanding immediately prior to the Split Effective Time and the shares of Common Stock issued and held in the treasury of the Corporation immediately prior to the Split Effective Time are reclassified into a smaller number of shares such that each ten to fifteen shares of issued Common Stock immediately prior to the Split Effective Time is reclassified into one share of Common Stock, the exact ratio within the ten to fifteen range to be determined by the Board of Directors of the Corporation prior to the Split Effective Time and publicly announced by the Corporation. Notwithstanding the foregoing, no fractional shares of Common Stock shall be issued as a result of the reclassification. In lieu of any fractional share to which the holder would otherwise be entitled, the Corporation shall pay the holder cash equal to the product of such fraction multiplied by the Common Stock's fair market value as determined in good faith by the Board of Directors as of the Split Effective Time. Each stock certificate that, immediately prior to the Split Effective Time, represented shares of Common Stock that were issued and outstanding immediately prior to the Split Effective Time shall, from and after the Split Effective Time, automatically and without the necessity of presenting the same for exchange, represent that number of whole shares of Common Stock after the Split Effective Time into which the shares of Common Stock formerly represented by such certificate shall have been reclassified, provided, however, that each person of record holding a certificate that represented shares of Common Stock that were issued and outstanding immediately prior to the Split Effective Time shall receive, upon surrender of such certificate, a new certificate evidencing and representing the number of whole shares of Common

Stock after the Split Effective Time into which the shares of Common Stock formerly represented by such certificate shall have been reclassified."

SECOND: The amendment of the Third Restated Certificate of Incorporation set forth herein has been duly adopted by resolution of the Corporation's Board of Directors and was considered and duly authorized by the stockholders of the Corporation at the Annual Meeting of Stockholders duly called and held upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware at which meeting the requisite number of shares as required by statute were voted in favor of the amendment.

THIRD: That said amendment was duly adopted in accordance with the applicable provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment this 8th day of February, 2019.

CELLDEX THERAPEUTICS, INC.

By: /s/ Sam Martin
Name: Sam Martin
Title: Senior Vice President, Chief Financial Officer

EXHIBIT D

The By-Laws

SECOND AMENDED AND RESTATED
BY-LAWS
OF
CELLDEX THERAPEUTICS, INC.

as of November 3, 2022

ARTICLE I
OFFICES

SECTION 1. REGISTERED OFFICE. The registered office of the Corporation shall be fixed in the Third Restated Certificate of Incorporation of the Corporation (as amended and/or restated from time to time, the "Certificate of Incorporation").

SECTION 2. OTHER OFFICES. The Corporation may have other offices, either within or without the State of Delaware, at such place or places as the Corporation may from time to time determine or the business of the Corporation may require.

ARTICLE II
MEETINGS OF STOCKHOLDERS

SECTION 1. ANNUAL MEETINGS. Annual meetings of stockholders, for the election of directors to succeed those whose terms expire and for such other business as may be stated in the notice of the meeting, shall be held at such place either within or without the State of Delaware (if any), and at such time and date as the Board of Directors (or its designee) shall determine and set forth in the notice of meeting. At each annual meeting, the stockholders entitled to vote shall elect a Board of Directors and they may transact such other corporate business as shall be stated in the notice of the meeting.

SECTION 2. NOTICE OF STOCKHOLDER BUSINESS AND NOMINATIONS.

(A) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board of Directors and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders only (a) pursuant to the Corporation's notice of meeting (or any amendment or supplement thereto) delivered pursuant to Section 7 of Article II, (b) by or at the direction of the Board of Directors or any authorized committee thereof, (c) by any stockholder of the Corporation who is entitled to vote at the meeting, who complied with all of the notice procedures set forth in this Section 2 of Article II and who was a stockholder of record at the time such notice is delivered to the Secretary of the Corporation (the "Secretary"), or (d) by an Eligible Stockholder (as defined in Section 2 of Article III) that complies with the requirements of Section 2 of Article III. For the avoidance of doubt, the foregoing clauses (c) and (d) shall be the exclusive means for a stockholder to bring nominations or business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 promulgated under the Exchange Act) at an annual meeting of stockholders.

(2) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (c) of paragraph (A)(1) of this Section 2 of Article II, the stockholder must have given timely notice thereof in proper written form to the Secretary at the principal executive offices of the Corporation and provided any updates to such notice and additional information at the time and in the form required by Section 2(A)(8) or by Section 2(A)(9) of Article II, and, in the case of business other than nominations of persons for election to the Board of Directors, such other business must constitute a proper matter for stockholder action under Delaware law. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not less than seventy five (75) days nor more than one hundred and twenty (120) days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than thirty (30) days, or delayed by more than sixty (60) days, from the anniversary date of the previous year's meeting, or if no annual meeting was held in the preceding year, notice by the stockholder to be timely must be so delivered not later than the later of the seventy-fifth (75th) day prior to

such annual meeting or the fifteenth (15th) day following the day on which public announcement of the date of such meeting is first made by the Corporation. Neither the adjournment of an annual meeting, nor the postponement or rescheduling of an annual meeting for which notice of the meeting has already been given to stockholders or a public announcement of the meeting date has already been made, shall commence a new time period (or extend any time period) for the giving of a stockholder's notice. Notwithstanding anything in this Section 2(A)(2) of this Article II to the contrary, if the number of directors to be elected to the Board of Directors at an annual meeting is increased and there is no public announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board of Directors at least ten (10) days prior to the last day a stockholder may deliver a notice in accordance with the preceding provisions of this paragraph, then a stockholder's notice required by this Section 2(A)(2) of this Article II shall be considered timely, but only with respect to nominees for any new positions created by such increase, if it is received by the Secretary not later than the tenth (10th) calendar day following the day on which such public announcement is first made by the Corporation. To be considered timely, any stockholder notices or other information required to be delivered or submitted pursuant to this Section 2 of Article II must be received by the Corporation before the close of business of the designated day at the principal executive offices of the Corporation by delivery to its principal executive offices.

(3) If the stockholder proposes to nominate one or more persons for election or re-election as directors, the stockholder's notice shall set forth the names of such stockholder's nominees. The number of nominees a stockholder may set forth in such notice for nomination for election or re-election at an annual meeting (or in the case of a stockholder giving notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the annual meeting on behalf of the beneficial owner) shall not exceed the number of directors to be elected at such annual meeting. If the stockholder proposes to bring other business before an annual meeting, the stockholder's notice shall include (a) a brief description of the business desired to be brought before the meeting; (b) the text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend these Bylaws, the language of the proposed amendment); (c) the reasons for conducting such business at the meeting; and (d) any material interest (including a substantial interest, within the meaning of Item 5 of Schedule 14A under the Exchange Act) in such business of such stockholder and the beneficial owner, if any, on whose behalf the business or proposal is made.

(4) The stockholder's notice required by this Section 2 of Article II shall include the following information about the stockholder giving the notice and each beneficial owner, if any, on whose behalf the stockholder is making the nomination(s) or business or proposal(s), and any affiliate who controls either of the foregoing directly or indirectly (a "control person"): (a) each such person's name and address (including, in the case of the stockholder, the name and address that appears on the Corporation's books and records); (b) the class or series and number of shares of capital stock of the Corporation that are respectively owned, (directly or indirectly, beneficially or of record) by each such person (including any class or series of shares of the Corporation to which such person has a right to acquire beneficial ownership at any time in the future); and (c) any other information relating to each such person required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act.

(5) The stockholder's notice required by this Section 2 of Article II shall include as to each person whom the stockholder proposes to nominate for election or re-election as a director: (a) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest (even if an election contest is not involved), or is otherwise required, in each case pursuant to Section 14(a) of the Exchange Act; (b) a written representation and agreement, which shall be signed by such person and pursuant to which such person shall represent and agree that such person: (A) consents to serving as a director if elected and to being named in the Corporation's proxy materials and form of proxy as a nominee (with the Corporation determining in its discretion whether to include such nominee in its proxy materials), and currently intends to serve as a director for the full term for which such person is standing for election; (B) is not and will not become a party to any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity: (1) as to how the person, if elected as a director, will act or vote on any issue or question that has not been disclosed to the Corporation; or (2) that could limit or interfere with the person's ability to comply, if elected, with such person's fiduciary duties under applicable law; (C) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director or

nominee that has not been disclosed to the Corporation; and (D) if elected as a director, will comply with all of the Corporation's corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines, and any other Corporation policies and guidelines applicable to directors (which will be promptly provided following a request therefor); and (c) all completed and signed questionnaires provided by the Corporation (the "Questionnaires"). The Questionnaires will be provided by the Corporation within ten (10) days following a request therefor by a stockholder seeking to nominate nominees.

(6) The stockholder's notice required by this Section 2 of Article II shall include: (a) a description of any agreement, arrangement, understanding or relationship (including the identity of all the parties thereto) with respect to the nomination or proposal and/or the voting of shares of any class or series of stock of the Corporation to which any of the following is a party, or pursuant to which any of the following has a right to vote any shares of any class or series of stock of the Corporation: (i) the stockholder giving the notice; (ii) the beneficial owner, if any, on whose behalf the nomination or proposal is made, (iii) any of the stockholder's nominees for director; (v) the respective affiliates or associates of any of the foregoing; and (vi) any persons acting in concert with any of the foregoing (each person contemplated by the foregoing clauses (i)-(vi) collectively, "proponent persons"); and (b) a description of any agreement, arrangement or understanding (including, regardless of the form of settlement, any derivative, long or short positions, profit interests, any contract to purchase or sell, the acquisition or grant of any option, right or warrant to purchase or sell or any swap or other instrument) to which any proponent person is a party, the intent or effect of which may be (i) to transfer to or from any proponent person, in whole or in part, any of the economic consequences of ownership of any security of the Corporation, (ii) to increase or decrease the voting power of any proponent person with respect to shares of any class or series of stock of the Corporation and/or (iii) to provide any proponent person, directly or indirectly, with the opportunity to hedge, profit or share in any profit derived from, or to otherwise benefit economically from, any increase or decrease in the value of any security of the Corporation; and (c) any significant equity interest held by the proponent persons in any principal competitors of the Corporation, a list of which will be provided by the Corporation within ten (10) days following a request therefor by a stockholder.

(7) The stockholder's notice required by this Section 2 of Article II shall include the following representations, certifications and agreements from each of the stockholder giving the notice, each beneficial owner (if any) on whose behalf the stockholder's nomination or proposal is being made each control person (if any): (a) a representation that the stockholder giving the notice is a holder of record of stock of the Corporation at the timing the notice required by Section 2 of Article II is given; and will be a stockholder of record as of the date of the annual meeting; (b) a representation whether or not a stockholder, beneficial owner or control person(s), if any, will, or will be part of a group that will, (i) deliver a proxy statement and/or form of proxy to holders of at least the percentage of the voting power of the Corporation's outstanding capital stock required to approve or adopt the proposal or, in the case of a nominee, at least 50% of the voting power of the Corporation's outstanding capital stock; (ii) solicit proxies or votes from stockholders pursuant to Rule 14a-19 under the Exchange Act; and/or (iii) otherwise solicit proxies with respect to one or more nominees or business proposals (in each case, specifically identifying each participant in the solicitation as defined under Item 4 of Schedule 14A and the means by which the participants intend to solicit proxies or votes); and (c) a certification regarding whether such stockholder, and beneficial owner and control person, if any, have complied with all applicable federal, state and other legal requirements in connection with the stockholder's, beneficial owner's and/or control person's acquisition of shares of capital stock or other securities of the Corporation and/or the stockholder's, beneficial owner's and/or control person's acts or omissions as a stockholder of the Corporation.

(8) A stockholder providing notice of a proposed nomination or other business proposed to be brought before a meeting (whether given pursuant to this Section 2(A) or Section 2(B) of Article II) shall update and supplement such notice from time to time to the extent necessary so that the information provided or required to be provided in such notice shall be true and correct (x) as of the record date for determining the stockholders entitled to notice of the meeting and (y) as of the date that is fifteen (15) days prior to the meeting or any adjournment or postponement thereof, provided that if the record date for determining the stockholders entitled to vote at the meeting is less than fifteen (15) days prior to the meeting or any adjournment or postponement thereof, the information shall be supplemented and updated as of such later date. Any such update and supplement shall be delivered in proper written form to the Secretary at the principal executive offices of the Corporation not later than five (5) days after the record date for determining the stockholders entitled to notice of the meeting (in the case of any update and supplement required to be made as of the record date for determining the stockholders entitled to notice of the meeting), not later than ten (10) days prior to the date for the meeting or any adjournment or

postponement thereof (in the case of any update or supplement required to be made as of fifteen (15) days prior to the meeting or adjournment or postponement thereof) and not later than five (5) days after the record date for determining the stockholders entitled to vote at the meeting, but no later than the date prior to the meeting or any adjournment or postponement thereof (in the case of any update and supplement required to be made as of a date less than fifteen (15) days prior the date of the meeting or any adjournment or postponement thereof).

(9) At any time before the applicable meeting of stockholders, the Corporation may require (a) any proposed nominee to furnish such other information as it may require to determine the eligibility of such proposed nominee to serve as a director of the Corporation, to assess the background of such nominee and to determine the independence of such nominee under the Exchange Act and rules and regulations thereunder and applicable stock exchange rules and (b) any proposed nominee and any stockholder who has provided a notice of nomination or other business (and any beneficial owner on whose behalf such stockholder is acting and any control person) to provide any information that the Corporation determines is required to determine whether any person has complied with this Section 2 of Article II. Any such information required to be provided pursuant to this paragraph must be provided to the Corporation within five (5) business days of the Corporation's request therefor.

(B) Special Meetings of Stockholders.

Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (1) by or at the direction of the Board of Directors or any committee thereof or (2) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is entitled to vote at the meeting, who complies with the notice procedures set forth in this Section 2 of Article II and who is a stockholder of record at the time such notice is delivered in proper written form to the Secretary at the principal executive offices of the Corporation. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting if the stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to such special meeting and not later than the close of business on the later of the 75th day prior to such special meeting and the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. The number of nominees a stockholder may nominate for election at the special meeting (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such special meeting. In no event shall an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Such notice of a stockholder shall include the same information, representations, certifications and agreements that would be required if the stockholder were to make a nomination in connection with an annual meeting of stockholders pursuant to Sections 2(A)(4)-(7) of Article II and such stockholder shall be obligated to provide the same supplemental or additional information in connection with a special meeting of stockholders as required pursuant to Section 2(A)(8)-(9) of Article II in connection with an annual meeting of stockholders.

(C) General.

(1) Subject to Section 2 of Article III, only such persons who are nominated in accordance with the procedures set forth in this Section 2 of Article II shall be eligible to serve as directors and only such business shall be conducted at an annual or special meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section. Without limiting any remedy available to the Corporation, a stockholder may not present nominations for director or business at a meeting of stockholders (and any such nominee shall be disqualified from standing for election or re-election), notwithstanding that proxies in respect of such vote may have been received by the Corporation, if such stockholder, any beneficial owner (as applicable) or any nominee for director (as applicable) acted contrary to any representation, certification or agreement required by this Section 2 of Article II, otherwise failed to comply with this Section (or with any law, rule or regulation identified in this Section 2 of Article II) or provided false or misleading information to the Corporation.

(2) Unless otherwise required by law or as otherwise determined by the chair of the meeting, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or business, such nomination shall be disregarded and such proposed business (whether pursuant to the requirements of these By-Laws or in accordance with Rule 14a-8 under the Exchange Act) shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of these By-Laws, to be considered a "qualified representative" of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, to the Secretary at the principal executive offices of the Corporation at least five (5) days in advance of the meeting of stockholders.

(3) Except as otherwise provided by law, the Amended and Restated Certificate of Incorporation or these By-Laws, the chair of the meeting shall, in addition to making any other determination that may be appropriate for the conduct of the meeting, have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in these By-Laws and, if any proposed nomination or business is not in compliance with these By-Laws, to declare that such defective proposal or nomination shall be disregarded, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

(4) Whenever used in these By-Laws, (i) "public announcement" shall mean disclosure (a) in a press release released by the Corporation, provided that such press release is released by the Corporation following its customary procedures, is reported by the Dow Jones News Service, Associated Press or comparable national news service or is generally available on internet news sites or (b) in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder, and (ii) the "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended and the rules and regulations promulgated thereunder. For purposes of this Section 2 of Article II and Section 2 of Article III, "close of business" shall mean 5:00 p.m. local time in the principal executive offices of the Corporation on any calendar day, whether or not the day is a business day.

(5) Nothing in this Section 2 of Article II shall be deemed to affect any rights (a) of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to applicable rules and regulations promulgated under the Exchange Act (including, without limitation, Rule 14a-8 of the Exchange Act) or (b) of the holders of any series of preferred stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

(6) A stockholder (and beneficial owner and control person, as applicable) shall also comply with all applicable requirements of the Exchange Act (including Rule 14a-19, if applicable) with respect to the matters set forth in this Section 2 of Article II.

SECTION 3. DELIVERY TO THE CORPORATION. Whenever this Article II (or Section 2 of Article III of these By-Laws) requires one or more persons (including a record or beneficial owner of stock) to deliver a document or information to the Corporation or any officer, employee or agent thereof (including any notice, request, questionnaire, revocation, representation or other document or agreement), the Corporation shall not be required to accept delivery of such document or information unless the document or information is in writing exclusively (and not in an electronic transmission) and delivered exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested.

SECTION 4. VOTING AND PROXIES. Stockholders shall have one vote for each share of stock entitled to vote owned by them of record according to the stock transfer books of the Corporation, unless otherwise provided by law or by the Certificate of Incorporation (including any certificate of designations relating to any series of Preferred Stock (each hereinafter referred to as a "Preferred Stock Designation")). Every stockholder entitled to vote for directors, or on any other matter, shall have the right to do so either in person or by one or more persons authorized to act for such stockholder by proxy. No proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Any copy, facsimile telecommunication or other reliable reproduction of document (including any electronic transmission) created pursuant to §212(c) of the Delaware General Corporation

Law (as amended from time to time, the "DGCL") may be substituted for or used in lieu of the original document for any and all purposes for which the original document could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire document.

At any meeting of stockholders for the election of one or more directors at which a quorum is present, each director shall be elected by the vote of a majority of the votes cast with respect to the director, provided that if, as of a date that is ten (10) days in advance of the date on which the Corporation files its definitive proxy statement with the Securities and Exchange Commission (regardless of whether thereafter revised or supplemented), the number of nominees for director exceeds the number of directors to be elected, the directors shall be elected by the vote of a plurality of the votes cast by the stockholders entitled to vote at the election. For purposes of this Section 4, a majority of the votes cast means that the number of shares voted "for" a director exceeds the number of votes cast "against" that director. The following shall not be votes cast: (a) a share otherwise present at the meeting but for which there is an abstention; and (b) a share otherwise present at the meeting as to which a shareholder gives no authority or direction. If an incumbent director then serving on the Board of Directors does not receive the required majority, the director shall promptly tender such person's resignation to the Board of Directors. Within ninety (90) days after the date of the certification of the election results, the Nominating and Corporate Governance Committee of the Board of Directors (or other committee that may be designated by the Board of Directors) will make a recommendation to the Board of Directors as to whether to accept or reject the resignation, or whether other action should be taken. The Board of Directors will act on the tendered resignation, taking into account the Nominating and Corporate Governance Committee's recommendation, and publicly disclose its decision regarding the tendered resignation and the rationale behind the decision. The Nominating and Corporate Governance Committee in making its recommendation, and the Board of Directors in making its decision, may each consider any factors or other information that they consider appropriate and relevant. The director who tenders such person's resignation will not participate in the recommendation of the Nominating and Corporate Governance Committee or the decision of the Board of Directors with respect to such person's resignation. If such incumbent director's resignation is not accepted by the Board of Directors, such director shall continue to serve until the next annual meeting and until such person's successor is duly elected, or such person's earlier resignation or removal. If a director's resignation is accepted by the Board of Directors pursuant to this Section 4, or if a nominee for director is not elected and the nominee is not an incumbent director, then the Board of Directors may fill the resulting vacancy pursuant to the provisions of these By-Laws or may decrease the size of the Board of Directors pursuant to these By-Laws.

Except as otherwise required by law, Certificate of Incorporation, these By-Laws, or the rules of any stock exchange upon which the Corporation's securities are listed, all matters other than the election of directors (which shall be governed by the immediately preceding paragraph) shall be determined by a majority of the votes cast affirmatively or negatively.

SECTION 5. QUORUM, ADJOURNMENT AND CONDUCT OF MEETING. Except as otherwise required by law, by the Certificate of Incorporation or by these By-Laws, the presence, in person or by proxy, of stockholders holding a majority of the voting power of the outstanding capital stock of the Corporation entitled to vote at the meeting shall constitute a quorum at all meetings of the stockholders; provided, however, that where a separate vote by a class or series or classes or series of stock is required, the presence in person or by proxy of stockholders holding a majority of the voting power of the stock of such class or series or classes or series outstanding and entitled to vote thereon shall constitute a quorum entitled to take action with respect to such matter.

In case a quorum shall not be present at any meeting, the meeting may be adjourned from time to time by the stockholders, by the affirmative vote of a majority of the votes cast affirmatively or negatively, until the requisite amount of stock entitled to vote shall be present. At any such adjourned meeting at which the requisite amount of stock entitled to vote shall be represented, any business may be transacted which might have been transacted at the meeting as originally called. In addition, any meeting of stockholders, whether or not a quorum is present, may be adjourned or recessed for any reason from time to time by the Board of Directors, the President, the Chair of the Board or the chair of the meeting.

Unless otherwise determined by the Board of Directors, all meetings of stockholders shall be presided over by the Chair of the Board or the President, or if such persons are absent, by another officer designated by the Board of Directors. All meetings of stockholders shall be conducted in accordance with such rules and procedures as the Board of Directors may determine subject to the requirements of applicable law and, as to matters not governed by

such rules and procedures, as the chair of such meeting shall determine. Such rules or procedures, whether adopted by the Board of Directors or prescribed by the chair of such meeting, may include without limitation the following: (a) the establishment of an agenda or order of business for the meeting, (b) rules and procedures for maintaining order at the meeting and the safety of those present, (c) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chair of the meeting shall determine, (d) restrictions on entry to the meeting after the time fixed for commencement thereof, and (e) limitations on the time, if any, allotted to questions or comments by participants. Unless and to the extent determined by the Board of Directors or the chair of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

SECTION 6. SPECIAL MEETINGS. Subject to the rights of the holders of any outstanding series of Preferred Stock, special meetings of the stockholders for any purpose or purposes may be called only by the Chair of the Board, President, or Secretary, or by resolution of the directors.

SECTION 7. NOTICE OF MEETINGS. Whenever stockholders are required or permitted to take any action at a meeting, a timely notice in writing or by electronic transmission, in the manner provided in §232 of the DGCL, of the meeting, which shall state the place, if any, date and time of the meeting, the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purposes for which the meeting is called, shall be given by the Secretary to each stockholder of record entitled to vote thereat as of the record date for determining the stockholders entitled to notice of the meeting. Unless otherwise required by law, the Certificate of Incorporation or these By-Laws, the notice of any meeting shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting.

ARTICLE III
DIRECTORS

SECTION 1. NUMBER AND TERM. Except as otherwise provided or fixed pursuant to the Certificate of Incorporation (including any Preferred Stock Designation), the number of directors shall be no less than three but no more than nine, the exact number to be determined from time to time by the Board of Directors pursuant to a resolution adopted by the affirmative vote of a majority of the total number of directors then authorized. The directors shall be elected at the annual meeting of the stockholders and each director shall be elected to serve until such person’s successor shall be elected and shall qualify. Directors need not be stockholders.

SECTION 2. PROXY ACCESS.

(a) **Inclusion of Stockholder Nominee in Proxy Statement.** Subject to the provisions of this Section 2, the Corporation shall include in its proxy statement (including its form of proxy and ballot) for an annual meeting of stockholders the name of any stockholder nominee for election to the Board of Directors submitted pursuant to this Section 2 (each a “Stockholder Nominee”) provided:

(i) timely written notice of such Stockholder Nominee satisfying this Section 2 (“Notice of Proxy Access Nomination”) is delivered to the Corporation by or on behalf of a stockholder or stockholders that, at the time the Notice of Proxy Access Nomination is delivered, satisfy the ownership and other requirements of this Section 2 (such stockholder or stockholders, and any person on whose behalf they are acting, the “Eligible Stockholder”);

(ii) the Eligible Stockholder expressly elects in writing at the time of providing the Notice of Proxy Access Nomination to have its Stockholder Nominee included in the Corporation's proxy statement pursuant to this Section 2; and

(iii) the Eligible Stockholder and the Stockholder Nominee otherwise satisfy the requirements of this Section 2.

(b) **Timely Notice.** To be timely, the Notice of Proxy Access Nomination must be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation, not later than 120 days nor more than 150 days prior to the first anniversary of the date (as stated in the Corporation's proxy materials) that the Corporation's definitive proxy statement was first sent to stockholders in connection with the preceding year's annual meeting of stockholders; *provided, however*, that in the event that the date of the annual meeting is advanced by more than 30 days or delayed by more than 60 days from the anniversary of the preceding year's annual meeting, or if no annual meeting was held in the preceding year, the Notice of Proxy Access Nomination must be so delivered not earlier than the close of business on the 150th day prior to such annual meeting and not later than the close of business on the later of: (i) the 120th day prior to such annual meeting; or (ii) the 10th day following the day on which public announcement of the date of such annual meeting is first made by the Corporation. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of the Notice of Proxy Access Nomination.

(c) **Information to be Included in Proxy Statement.** In addition to including the name of the Stockholder Nominee in the Corporation's proxy statement for the annual meeting, the Corporation shall also include (collectively, the "Required Information"):

(i) the information concerning the Stockholder Nominee and the Eligible Stockholder that is required to be disclosed in the Corporation's proxy statement pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act") and the rules and regulations promulgated thereunder; and

(ii) if the Eligible Stockholder so elects, a written statement of the Eligible Stockholder (or in the case of a group, a written statement of the group), not to exceed 500 words, in support of its Stockholder Nominee, which must be provided at the same time as the Notice of Proxy Access Nomination for inclusion in the Corporation's proxy statement for the annual meeting (a "Supporting Statement").

Notwithstanding anything to the contrary contained in this Section 2, the Corporation may omit from its proxy materials any information or Supporting Statement that it, in good faith, believes is untrue in any material respect (or omits a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading) or would violate any applicable law, rule, regulation, or listing standard. Additionally, nothing in this Section 2 shall limit the Corporation's ability to solicit against and include in its proxy statement its own statements relating to any Stockholder Nominee.

(d) **Stockholder Nominee Limits.** The number of Stockholder Nominees (including Stockholder Nominees that were submitted by an Eligible Stockholder for inclusion in the Corporation's proxy statement pursuant to this Section 2 but either are subsequently withdrawn or that the Board of Directors decides to nominate (a "Board Nominee")) appearing in the Corporation's proxy statement with respect to a meeting of stockholders shall not exceed the greater of: (x) two; or (y) 20% of the number of directors in office as of the last day on which notice of a nomination may be delivered pursuant to this Section 2 (the "Final Proxy Access Nomination Date") or, if such amount is not a whole number, the closest whole number below 20% (the "Permitted Number"); *provided, however*, that:

(i) in the event that one or more vacancies for any reason occurs on the Board of Directors at any time after the Final Proxy Access Nomination Date and before the date of the applicable annual meeting of stockholders and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Permitted Number shall be calculated based on the number of directors in office as so reduced;

(ii) any Stockholder Nominee who is included in the Corporation's proxy statement for a particular meeting of stockholders but either: (A) withdraws from or becomes ineligible or unavailable for election at the meeting, or (B) does not receive at least 25% of the votes cast in favor of such Stockholder Nominee's election, shall be ineligible to be included in the Corporation's proxy statement as a Stockholder Nominee pursuant to this Section 2 for the next two (2) annual meetings of stockholders following the meeting for which the Stockholder Nominee has been nominated for election; and

(iii) any director in office as of the nomination deadline who was included in the Corporation's proxy statement as a Stockholder Nominee for any of the two (2) preceding annual meetings and whom the Board of Directors decides to nominate for election to the Board of Directors also will be counted against the Permitted Number.

In the event that the number of Stockholder Nominees submitted by Eligible Stockholders pursuant to this Section 2 exceeds the Permitted Number, each Eligible Stockholder shall select one Stockholder Nominee for inclusion in the Corporation's proxy statement until the Permitted Number is reached, going in order of the amount (from greatest to least) of voting power of the Corporation's capital stock entitled to vote on the election of directors as disclosed in the Notice of Proxy Access Nomination. If the Permitted Number is not reached after each Eligible Stockholder has selected one Stockholder Nominee, this selection process shall continue as many times as necessary, following the same order each time, until the Permitted Number is reached.

(e) **Eligibility of Nominating Stockholder; Stockholder Groups.** An Eligible Stockholder must have owned (as defined below) continuously for at least three years a number of shares that represents 3% or more of the outstanding shares of the Corporation entitled to vote in the election of directors (the "Required Shares") as of both the date the Notice of Proxy Access Nomination is delivered to or received by the Corporation in accordance with this Section 2 and the record date for determining stockholders entitled to vote at the meeting and must continue to own the Required Shares for at least one (1) year following the date of the annual meeting and deliver a statement regarding the Eligible Stockholder's intent with respect to continued ownership of the Required Shares for at least one (1) year following the annual meeting. For purposes of satisfying the ownership requirement under this Section 2, the voting power represented by the shares of the Corporation's capital stock owned by one or more stockholders, or by the person or persons who own shares of the Corporation's capital stock and on whose behalf any stockholder is acting, may be aggregated, provided that each stockholder or other person whose shares are aggregated shall have held such shares continuously for at least three years. Whenever an Eligible Stockholder consists of a group of stockholders and/or other persons, any and all requirements and obligations for an Eligible Stockholder set forth in this Section 2 must be satisfied by and as to each such stockholder or other person, except that shares may be aggregated to meet the Required Shares as provided in this Section 2(e). With respect to any one particular annual meeting, no stockholder or other person may be a member of more than one group of persons constituting an Eligible Stockholder under this Section 2.

(f) **Funds.** A group of two or more funds shall be treated as one stockholder or person for this Section 2 provided that the other terms and conditions in this Section 2 are met (including Section 2(h)(v)(A)) and the funds are:

(i) under common management and investment control;

(ii) under common management and funded primarily by the same employer (or by a group of related employers that are under common control); or

(iii) a "group of investment companies," as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended.

(g) **Ownership.** For purposes of this Section 2, an Eligible Stockholder shall be deemed to "own" only those outstanding shares of the Corporation's capital stock as to which the person possesses both:

(i) the full voting and investment rights pertaining to the shares; and

(ii) the full economic interest in (including the opportunity for profit and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares:

(A) sold by such person or any of its affiliates in any transaction that has not been settled or closed,

(B) borrowed by such person or any of its affiliates for any purposes or purchased by such person or any of its affiliates pursuant to an agreement to resell, or

(C) subject to any option, warrant, forward contract, swap, contract of sale, other derivative, or similar agreement entered into by such person or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Corporation's capital stock, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of: (1) reducing in any manner, to any extent or at any time in the future, such person's or affiliates' full right to vote or direct the voting of any such shares; and/or (2) hedging, offsetting, or altering to any degree gain or loss arising from the full economic ownership of such shares by such person or affiliate.

An Eligible Stockholder "owns" shares held in the name of a nominee or other intermediary so long as the Eligible Stockholder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. An Eligible Stockholder's ownership of shares shall be deemed to continue during any period in which the Eligible Stockholder has delegated any voting power by means of a proxy, power of attorney, or other instrument or arrangement that is revocable at any time by the person. An Eligible Stockholder's ownership of shares shall be deemed to continue during any period in which the Eligible Stockholder has loaned such shares, provided that the Eligible Stockholder has the power to recall such loaned shares on three (3) business days' notice and recalls such loaned shares not more than three (3) business days after being notified that any of its Stockholder Nominees will be included in the Corporation's proxy statement. The terms "owned," "owning," and other variations of the word "own" shall have correlative meanings. For purposes of this Section 2, the term "affiliate" shall have the meaning ascribed thereto in the regulations promulgated under the Exchange Act.

(h) **Nomination Notice and Other Eligible Stockholder Deliverables.** An Eligible Stockholder must provide with its Notice of Proxy Access Nomination the following information in writing to the Secretary of the Corporation:

(i) one or more written statements from the record holder of the shares (and from each intermediary through which the shares are or have been held during the requisite three-year holding period) verifying that, as of a date within seven (7) calendar days prior to the date the Notice of Proxy Access Nomination is delivered to or received by the Corporation, the Eligible Stockholder owns, and has owned continuously for the preceding three years, the Required Shares, and the Eligible Stockholder's agreement to provide:

(A) within five (5) business days after the record date for the meeting, written statements from the record holder and intermediaries verifying the Eligible Stockholder's continuous ownership of the Required Shares through the record date, and

(B) immediate notice if the Eligible Stockholder ceases to own any of the Required Shares prior to the date of the applicable annual meeting of stockholders;

(ii) the Eligible Stockholder's representation and agreement that the Eligible Stockholder (including each member of any group of stockholders that together is an Eligible Stockholder under this Section 2):

(A) intends to continue to satisfy the eligibility requirements described in this Section 2 through the date of the annual meeting, including a statement that the Eligible Stockholder intends to continue to own the Required Shares for at least one (1) year following the date of the annual meeting,

(B) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control of the Corporation, and does not presently have such intent,

(C) has not nominated and will not nominate for election to the Board of Directors at the meeting any person other than the Stockholder Nominee(s) being nominated pursuant to this Section 2,

(D) has not engaged and will not engage in, and has not and will not be, a "participant" in another person's "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the meeting other than its Stockholder Nominee(s) or a Board Nominee,

(E) will not distribute to any stockholder any form of proxy for the meeting other than the form distributed by the Corporation,

(F) has provided and will provide facts, statements, and other information in all communications with the Corporation and its stockholders that are or will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading,

(G) agrees to assume all liability stemming from any legal or regulatory violation arising out of the Eligible Stockholder's communications with the Corporation's stockholders or out of the information that the Eligible Stockholder provides to the Corporation,

(H) agrees to indemnify and hold harmless the Corporation and each of its directors, officers, and employees individually against any liability, loss, or damages in connection with any threatened or pending action, suit, or proceeding, whether legal, administrative, or investigative, against the Corporation or any of its directors, officers, or employees arising out of any nomination submitted by the Eligible Stockholder pursuant to this Section 2,

(I) will file with the Securities and Exchange Commission any solicitation or other communication with the Corporation's stockholders relating to the meeting at which the Stockholder Nominee will be nominated, regardless of whether any such filing is required under Section 14 of the Exchange Act and the rules and regulations promulgated thereunder or whether any exemption from filing is available for such solicitation or other communication under Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, and

(J) will comply with all other applicable laws, rules, regulations, and listing standards with respect to any solicitation in connection with the meeting;

(iii) the written consent of each Stockholder Nominee to be named in the Corporation's proxy statement, and form of proxy and ballot and, as a nominee and, if elected, to serve as a director;

(iv) a copy of the Schedule 14N (or any successor form) that has been filed with the Securities and Exchange Commission as required by Rule 14a-18 under the Exchange Act;

(v) in the case of a nomination by a group of stockholders that together is an Eligible Stockholder:

(A) documentation satisfactory to the Corporation demonstrating that a group of funds qualifies pursuant to the criteria set forth in Section 13(f) to be treated as one stockholder or person for purposes of this Section 2, and

(B) the designation by all group members of one group member that is authorized to act on behalf of all members of the nominating stockholder group with respect to the nomination and matters related thereto, including withdrawal of the nomination; and

(vi) if desired, a Supporting Statement.

(i) **Stockholder Nominee Agreement.** Each Stockholder Nominee must:

(i) complete, sign, and submit all Questionnaires within five (5) business days of receipt of each such Questionnaire from the Corporation; and

(ii) provide within five (5) business days of the Corporation's request such additional information as the Corporation determines may be necessary to permit the Board of Directors to determine whether such Stockholder Nominee meets the requirements of this Section 2 or the Corporation's requirements with regard to director qualifications and policies and guidelines applicable to directors, including whether:

(A) such Stockholder Nominee is independent under the independence requirements, including the committee independence requirements, set forth in the listing standards of the stock exchange on which shares of the Corporation's capital stock are listed, any applicable rules of the SEC, and any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the directors (the "Independence Standards"),

(B) such Stockholder Nominee has any direct or indirect relationship with the Corporation that has not been deemed categorically immaterial pursuant to the Corporation's Corporate Governance Guidelines, and

(C) such Stockholder Nominee is not and has not been subject to: (1) any event specified in Item 401(f) of Regulation S-K under the Securities Act of 1933, as amended (the "Securities Act"), or (2) any order of the type specified in Rule 506(d) of Regulation D under the Securities Act.

(j) **Eligible Stockholder/Stockholder Nominee Undertaking.** In the event that any information or communications provided by the Eligible Stockholder or Stockholder Nominee to the Corporation or its stockholders ceases to be true and correct in any respect or omits a fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, each Eligible Stockholder or Stockholder Nominee, as the case may be, shall promptly notify the Secretary of the Corporation of any such inaccuracy or omission in such previously provided information and of the information that is required to make such information or communication true and correct. Notwithstanding the foregoing, the provision of any such notification pursuant to the preceding sentence shall not be deemed to cure any defect or limit the Corporation's right to omit a Stockholder Nominee from its proxy materials as provided in this Section 2.

(k) **Exceptions Permitting Exclusion of Stockholder Nominee.** The Corporation shall not be required to include pursuant to this Section 2 a Stockholder Nominee in its proxy statement (or, if the proxy statement has already been filed, to allow the nomination of a Stockholder Nominee, notwithstanding that proxies in respect of such vote may have been received by the Corporation):

(i) if the Eligible Stockholder who has nominated such Stockholder Nominee has nominated for election to the Board of Directors at the meeting any person other than pursuant to this Section 2, or has or is engaged in, or has been or is a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the meeting other than its Stockholder Nominee(s) or a Board Nominee;

(ii) if the Corporation has received a notice (whether or not subsequently withdrawn) that a stockholder intends to nominate any candidate for election to the Board of Directors pursuant to the advance notice requirements for stockholder nominees for directors in Section 2 of this Article III;

(iii) who is not independent under the Independence Standards;

(iv) whose election as a member of the Board of Directors would violate or cause the Corporation to be in violation of these By-Laws, the Corporation's Certificate of Incorporation, Corporate Governance Guidelines, Code of Business Conduct and Ethics, or other document setting forth qualifications for directors, the listing standards of the stock exchange on which shares of the Corporation's capital stock is listed, or any applicable state or federal law, rule, or regulation;

(v) if the Stockholder Nominee is or becomes a party to (1) any agreement, arrangement, or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation; or (2) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law;

(vi) if the Stockholder Nominee is or becomes a party to any agreement, arrangement, or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement, or indemnification in connection with such person's nomination for director or service as a director that has not been disclosed to the Corporation;

(vii) who is or has been, within the past three years, an officer or director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914;

(viii) who is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in such a criminal proceeding within the past ten years;

(ix) who is subject to any order of the type specified in Rule 506(d) of Regulation D under the Securities Act; or

(x) if such Stockholder Nominee or the applicable Eligible Stockholder shall have provided information to the Corporation in respect of such nomination that was untrue in any material respect or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which they were made, not misleading or shall have breached its or their agreements, representations, undertakings, or obligations pursuant to this Section 2.

(l) **Invalidity.** Notwithstanding anything to the contrary set forth herein, the Board of Directors or the person presiding at the meeting shall be entitled to declare a nomination by an Eligible Stockholder to be invalid, and such nomination shall be disregarded notwithstanding that proxies in respect of such vote may have been received by the Corporation; and the Corporation shall not be required to include in its proxy statement any successor or replacement nominee proposed by the applicable Eligible Stockholder or any other Eligible Stockholder if:

(i) the Stockholder Nominee and/or the applicable Eligible Stockholder shall have breached its or their agreements, representations, undertakings, or obligations pursuant to this Section 13, as determined by the Board of Directors or the person presiding at the meeting; or

(ii) the Eligible Stockholder (or a qualified representative thereof, as defined in Section 2(c)(2) of Article II) does not appear at the meeting to present any nomination pursuant to this Section 2.

SECTION 3. RESIGNATIONS. Any director, member of a committee or officer may resign at any time. Such resignation shall be made in writing, and shall take effect at the time specified therein, and if no time be specified, at the time of its receipt by the Chairman of the Board, the President or the Secretary. The acceptance of a resignation shall not be necessary to make it effective.

SECTION 4. VACANCIES. Subject to the rights of the holders of any outstanding series of Preferred Stock, if the office of any director becomes vacant for any reason, the remaining directors in office, though less than a quorum, or the sole remaining director shall have the exclusive right to fill such vacancy, and a director so chosen shall hold such office for a term expiring at the next annual meeting of stockholders; provided, however, that notwithstanding the foregoing, any vacancy resulting from the removal of a director may also be filled by the holders of a majority of the voting power of the outstanding capital stock of the Corporation entitled to vote thereon, and a director so chosen shall hold office for a term expiring at the next annual meeting of stockholders.

SECTION 5. REMOVAL. Except as hereinafter provided, any director or directors may be removed either for or without cause at any time by the affirmative vote of the holders of a majority of all the shares of stock outstanding

and entitled to vote at an election of directors; provided, however, that whenever the holders of any class or series of stock are entitled to elect one or more directors by the Certificate of Incorporation (including any Preferred Stock Designation), with respect to the removal without cause of a director or directors selected, the vote of the holders of the outstanding shares of that class or series and not the vote of the outstanding shares as a whole shall apply.

SECTION 6. INCREASE OF NUMBER. Subject to the rights of the holders of any outstanding series of Preferred Stock, newly created directorships resulting from an increase in the authorized number of directors may be filled by (i) the affirmative vote of a majority of the directors then in office, even if less than a quorum, or by the sole director in officer, or (ii) the affirmative vote of the holders of a majority of the voting power of the outstanding capital stock of the Corporation entitled to vote thereon, and any director so chosen shall serve for a term expiring at the next annual meeting of stockholders.

SECTION 7. POWERS. The Board of Directors shall exercise all of the powers of the Corporation except such as are by law, by the Certificate of Incorporation of the Corporation or by these By-Laws conferred or reserved to the stockholders.

SECTION 8. COMMITTEES. The Board of Directors may designate one or more committees, each such committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee to replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

Any such committee, to the extent permitted by law and provided in the resolution of the Board of Directors establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (a) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval; or (b) adopting, amending or repealing any bylaw of the Corporation. All committees of the Board of Directors shall keep minutes of their meetings and shall report their proceedings to the Board of Directors when requested or required by the Board of Directors.

SECTION 9. MEETINGS. The newly elected directors may hold their first meeting for the purpose of organization and the transaction of business, if a quorum be present, immediately after the annual meeting of the stockholders; or the time and place of such meeting may be fixed by consent in writing of all the directors.

Regular meetings of the directors may be held without notice at such places, if any, and times as shall be determined from time to time by resolution of the directors.

Special meetings may be held at any time upon call of the Chair of the Board, the President or any two directors. The person or persons authorized to call special meetings of the Board of Directors may fix the place, if any, within or without the State of Delaware, date and time of such meetings. Notice of each such meeting shall be given to each director, if by mail, addressed to such director at such person’s residence or usual place of business, at least five days before the day on which such meeting is to be held, or shall be sent to such director by electronic transmission, or be delivered personally or by telephone, in each case at least 24 hours prior to the time set for such meeting. A notice of special meeting need not state the purpose of such meeting, and, unless indicated in the notice thereof, any and all business may be transacted at a special meeting.

The directors shall elect a Chair of the Board of Directors, who shall preside at all meetings of the Board of Directors and who shall have and perform such other duties as from time to time may be assigned to the Chair of the Board of Directors by the Board of Directors.

Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, members of the Board of Directors or of any committee designated by the Board of Directors may participate in a meeting of the Board of Directors or such committee, as the case may be, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

SECTION 10. QUORUM. A majority of the directors then in office shall constitute a quorum for the transaction of business; provided that in no case shall less than one third of the total number of directors then authorized constitute a quorum. If at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum is obtained, and no further notice need be given other than by announcement at the meeting which shall be so adjourned.

SECTION 11. COMPENSATION. Directors, and members of any committee of the Board of Directors, shall be entitled to such reasonable compensation for serving as directors and as members of any committee as shall be fixed from time to time by resolution of the Board of Directors, and shall also be entitled to reimbursement for any reasonable expenses incurred in attending those meetings. The compensation of directors may be on any basis as determined in the resolution of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the Corporation in another capacity as an officer, agent or otherwise, and receiving compensation therefor.

SECTION 12. ACTION WITHOUT MEETING. Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if prior to such action all members of the Board or such committee, as the case may be, consent thereto in writing or by electronic transmission. After an action is taken, the writing or writings or electronic transmission or transmissions shall be filed with the minutes of proceedings of the Board or committee, respectively. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

SECTION 13. EMERGENCY BYLAWS. This Section 13 of Article III shall be operative during any emergency condition as contemplated by §110 of the DGCL (an "Emergency"), notwithstanding any different or conflicting provision in these By-Laws, the Certificate of Incorporation or the DGCL. In the event of any Emergency, or other similar emergency condition, the director or directors in attendance at a meeting of the Board of Directors or a standing committee thereof shall constitute a quorum. Such director or directors in attendance may further take action to appoint one or more of themselves or other directors to membership on any standing or temporary committee of the Board of Directors as they shall deem necessary or appropriate. Except as the Board of Directors may otherwise determine, during any Emergency, the Corporation and its directors and officers may exercise any authority and take any action or measure contemplated by §110 of the DGCL.

ARTICLE IV
OFFICERS

SECTION 1. OFFICERS. The officers of the Corporation shall be a President, a Chief Financial Officer and a Secretary, all of whom shall be elected by the Board of Directors and each of whom shall hold office until their successors are elected and qualified. In addition, the Board of Directors may elect one or more Vice Presidents, a Treasurer and such Assistant Secretaries and Assistant Treasurers as they may deem proper. None of the officers of the Corporation need be directors. More than two offices may be held by the same person.

SECTION 2. OTHER OFFICERS AND AGENTS. The Board of Directors may appoint such other officers and agents as it may deem advisable, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

SECTION 3. PRESIDENT. The President shall be the chief executive officer of the Corporation. Subject to the provisions of these By-Laws and to the direction of the Board of Directors, the President shall have the responsibility for the general management and control of the business and affairs of the Corporation and shall perform all duties and have all powers which are commonly incident to the office of chief executive or which are delegated to the President by the Board of Directors. The President shall have the power to sign all contracts and

other instruments of the Corporation which are authorized and shall have general supervision and direction of all of the other officers, employees and agents of the Corporation.

SECTION 4. VICE PRESIDENT. Each Vice President, if any, shall have such powers as shall be assigned by the Board of Directors and shall perform such duties as shall be assigned by the President or the Board of Directors.

SECTION 5. CHIEF FINANCIAL OFFICER. The Chief Financial Officer shall have the custody of the corporate funds and securities and shall keep full and accurate account of receipts and disbursements in books belonging to the Corporation. The Chief Financial Officer shall deposit all moneys and other valuables in the name and to the credit of the Corporation in such depositaries as may be designated by the Board of Directors.

The Chief Financial Officer shall disburse the funds of the Corporation as may be ordered by the Board of Directors or the President, taking proper vouchers for such disbursements. The Chief Financial Officer shall render to the President and the Board of Directors at the regular meetings of the Board of Directors, or whenever they may request it, an account of all such officer's transactions as Chief Financial Officer and of the financial condition of the Corporation. If required by the Board of Directors, the Chief Financial Officer shall give the Corporation a bond for the faithful discharge of such officer's duties, in such amount and with such surety as the Board of Directors shall prescribe.

SECTION 6. SECRETARY. The Secretary shall give, or cause to be given, notice of all meetings of stockholders and directors, and all other notices required by law or by these By-Laws, and in case of such person's absence or refusal or neglect so to do, any such notice may be given by any person thereunto directed by the President, or by the Board of Directors. The Secretary shall record all the proceedings of the meetings of the Corporation and of the directors, in a book to be kept for that purpose, and shall perform such other duties as may be assigned to Secretary by the Board of Directors or by the President. The Secretary shall have the custody of the seal of the Corporation and shall affix the same to all instruments requiring it, when authorized by the directors or the President, and attest the same.

SECTION 7. TREASURER. The Treasurer, if any, shall have the powers as shall be assigned to the Treasurer by the Board of Directors and shall perform such duties as shall be assigned by the President or the Board of Directors.

SECTION 8. ASSISTANT TREASURERS AND ASSISTANT SECRETARIES. Assistant Treasurers and Assistant Secretaries, if any, shall have such powers as shall be assigned to them, respectively, by the Board of Directors and shall perform such duties as shall be assigned by the President or the Board of Directors.

SECTION 9. DELEGATION OF AUTHORITY. The Board of Directors may from time-to-time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

SECTION 10. REMOVAL. Any officer of the Corporation may be removed at any time, with or without cause, by the Board of Directors.

SECTION 11. ACTION WITH RESPECT TO SECURITIES OF OTHER CORPORATIONS. Unless otherwise directed by the Board of Directors, the President or any officer of the Corporation authorized by the President, shall have power to vote and otherwise act on behalf of the Corporation, in person or by proxy, at any meeting of stockholders of or with respect to any action of security holders of any other entity in which this Corporation may hold securities and otherwise to exercise any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other entity.

ARTICLE V
STOCK CERTIFICATES AND THEIR TRANSFER

SECTION 1. CERTIFICATE OF STOCK. The shares of the Corporation shall be represented by certificates; provided, however, that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by

a certificate until such certificate is surrendered to the Corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by any two authorized officers of the Corporation, including, without limitation, the President, the Chief Financial Officer, the Treasurer, the Secretary, or an Assistant Treasurer or Assistant Secretary certifying the number of shares owned by such holder in the Corporation. Any or all such signatures may be facsimiles. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

SECTION 2. LOST CERTIFICATES. The Corporation may issue a new share certificate or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate or the owner's legal representative to give the Corporation a bond (or other adequate security) sufficient to indemnify it against any claim that may be made against it (including any expense or liability) on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares. The Board of Directors may adopt such other provisions and restrictions with reference to lost certificates, not inconsistent with applicable law, as it shall in its discretion deem appropriate.

SECTION 3. TRANSFER OF SHARES. The shares of stock of the Corporation shall be transferable only upon its books upon authorization by the holders thereof or by their duly authorized attorneys or legal representatives, and if such shares are certificated shares, upon surrender of the certificate or certificates for such shares properly endorsed or accompanied by a duly executed stock transfer power and the payment of any taxes thereon; provided, however, that the Corporation shall be entitled to recognize and enforce any lawful restriction on transfer.

SECTION 4. STOCKHOLDERS RECORD DATE. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date pursuant to §213 of the DGCL.

ARTICLE VI
INDEMNIFICATION OF DIRECTORS AND OFFICERS

SECTION 1. GENERAL. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that such person is or was a director or officer of the Corporation, or, while a director or officer, is or was serving at the request of the Corporation, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and accounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person (a) acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation and (b) with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person (x) did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation and (y) with respect to any criminal action or proceeding, did not have reasonable cause to believe that such person's conduct was unlawful.

SECTION 2. DERIVATIVE ACTIONS. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the Corporation, or, while a director or officer, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense

or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation, provided, however, that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

SECTION 3. INDEMNIFICATION IN CERTAIN CASES.

(a) Notwithstanding anything to the contrary in this Article VI, the Corporation shall not be required to indemnify any person pursuant to this Article VI in connection with an action, suit or proceeding (or part thereof) initiated by that person unless (1) the initiation thereof was approved by the Board of Directors or (2) the initiation thereof was in connection with successfully establishing that person's right to indemnification or advancement of expenses under this Article VI.

(b) To the extent that a current or former director or officer of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 1 and 2 of this Article VI, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

SECTION 4. PROCEDURE. Any indemnification under Sections 1 and 2 of this Article VI (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director or officer is proper in the circumstances because such person has met the applicable standard of conduct set forth in such Sections 1 and 2. Such determination shall be made with respect to a person who is a current director or officer of the Corporation at the time of such determination (a) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum; (b) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum; (c) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion; or (d) by the stockholders.

SECTION 5. ADVANCES FOR EXPENSES. Expenses (including attorneys' fees) reasonably incurred by a current or former officer or director in defending a civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount unless it shall be ultimately determined that such person is entitled to be indemnified by the Corporation as authorized in this Article VI. Such expenses (including attorneys' fees) incurred by other employees and agents of the Corporation may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

SECTION 6. RIGHTS NON-EXCLUSIVE. The indemnification and advancement of expenses provided by or granted pursuant to this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under law, by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office.

SECTION 7. INSURANCE. The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Article VI.

SECTION 8. DEFINITION OF CORPORATION. For the purposes of this Article VI, reference to the "Corporation" shall include any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to

indemnify its directors, officers and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall stand in the same position under this Article VI with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

SECTION 9. OTHER DEFINITIONS. For purposes of this Article VI, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Article VI.

SECTION 10. NATURE OF RIGHTS. The rights conferred in this Article VIII shall be contract rights and such rights shall continue as to an any person who has ceased to be a director or officer and shall inure to the benefit of such person's heirs, executors and administrators. Any amendment, alteration or repeal of this Article VI that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit, eliminate, or impair any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment or repeal.

ARTICLE VII
GENERAL PROVISIONS

SECTION 1. DIVIDENDS. Subject to the provisions of the Certificate of Incorporation, the Board of Directors may, out of funds legally available therefor at any regular or special meeting, declare dividends upon the capital stock of the Corporation as and when they deem expedient. Before declaring any dividend there may be set apart out of any funds of the Corporation available for dividends, such sum or sums as the directors from time to time in their discretion deem proper for working capital or as a reserve fund to meet contingencies or for equalizing dividends or for such other purposes as the directors shall deem conducive to the interests of the Corporation.

SECTION 2. SEAL. The Board of Directors may provide a suitable seal, containing the name of the Corporation, which seal shall be in the charge of the Secretary of the Corporation. If and when so directed by the Board of Directors or a committee thereof, duplicates of the seal may be kept and used by the Treasurer or by an Assistant Secretary or Assistant Treasurer.

SECTION 3. FISCAL YEAR. The fiscal year of the Corporation shall be determined by resolution of the Board of Directors.

SECTION 4. CHECKS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation, and in such manner an shall be determined from time to time by resolution of the Board of Directors.

SECTION 5. WAIVER OF NOTICE. Whenever notice is required to be given under any provision of the DGCL or the Certificate of Incorporation or these By-Laws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, the Board of Directors or a committee of the Board of Directors need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the Certificate of Incorporation or these By-Laws.

ARTICLE VIII
AMENDMENTS

These By-Laws may be altered or repealed and By-Laws may be made (a) by the affirmative vote of the holders of a majority of voting power of the stock issued and outstanding and entitled to vote thereon, or (b) by the Board of Directors.

ARTICLE IX
EXCLUSIVE FORUM

SECTION 1. FORUM. Unless the Corporation, in writing, selects or consents to the selection of an alternative forum: (a) the sole and exclusive forum for any complaint asserting any internal corporate claims (as defined below), to the fullest extent permitted by law, and subject to applicable jurisdictional requirements, shall be the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have, or declines to accept, jurisdiction, another state court or a federal court located within the State of Delaware); and (b) the sole and exclusive forum for any complaint asserting a cause of action arising under the Securities Act of 1933, to the fullest extent permitted by law, shall be the federal district courts of the United States of America. For purposes of this Article IX, internal corporate claims means claims, including claims in the right of the Corporation that are based upon a violation of a duty by a current or former director, officer, employee or stockholder in such capacity, or as to which the DGCL confers jurisdiction upon the Court of Chancery. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article IX.

SECTION 2. ENFORCEABILITY. If any provision of this Article IX shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provision in any other circumstance and of the remaining provisions of this Article IX (including, without limitation, each portion of any sentence of this Article IX containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities or circumstances shall not in any way be affected or impaired thereby.

Lowenstein Sandler

February 28, 2023

BY EMAIL (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: Celldex Therapeutics, Inc. – Section 14(a), Rule 14a-8 Stockholder Proposal Submitted by James McRitchie

Ladies and Gentlemen:

We refer to our letter, dated February 3, 2023 (the "**No-Action Request**"), pursuant to which we requested, on behalf of our client Celldex Therapeutics, Inc., a Delaware corporation (the "**Company**"), and pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended, the Staff of the Division of Corporation Finance of the Securities Exchange Commission concur with our view that the Company may exclude the shareholder proposal (the "**Proposal**") submitted by James McRitchie (the "**Proponent**"), from the Company's proxy statement and form of proxy for its 2023 Annual Meeting of Stockholders .

Attached hereto as Exhibit A is an email correspondence, dated February 23, 2023, on behalf of the Proponent withdrawing the Proposal (the "**Withdrawal Email**"). In reliance on the Withdrawal Email, we hereby withdraw the No-Action Request on behalf of the Company.

If you have any questions with respect to this matter, please do not hesitate to contact me at (212) 206-8689 or via email at apergola@lowenstein.com.

Sincerely,

/s/ Anthony Pergola

Anthony Pergola

cc: James McRitchie
John Chevedden
Karen L. Shoos, Chair of the Board, *Celldex Therapeutics, Inc.*
Anthony S. Marucci, Chief Executive Officer, *Celldex Therapeutics, Inc.*
Freddy Jimenez, Senior Vice President and General Counsel, *Celldex Therapeutics, Inc.*
Kate Basmagian, *Lowenstein Sandler*

EXHIBIT A

Withdrawal Email

From: James McRitchie [redacted]
Sent: Thursday, February 23, 2023 1:45 PM
To: smartin@celldextherapeutics.com; SEC - Office of Chief Counsel
Cc: John Chevedden; Pergola, Anthony O.; Freddy Jimenez; Basmagian, Kate
Subject: Re: Celldex Therapeutics, Inc. No Action Request

This is to withdraw my proposal of December 4, 2022, on Fair Elections due to it being poorly worded. Please let me know if you would like something more formal.

James McRitchie
Shareholder Advocate
Corporate Governance
http://www.corpgov.net
[redacted]

On Feb 3, 2023, at 9:54 AM, Basmagian, Kate [redacted] wrote:

Good Afternoon,

We are writing to inform you that, on behalf of Celldex Therapeutics, Inc., we submitted the attached No Action Request Letter to the SEC this afternoon.

Kate Basmagian
Partner
Lowenstein Sandler LLP
[redacted]