As filed with the Securities and Exchange Commission on June 4, 2021.

Registration No. 333-255383

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Amendment No. 2 to
FORM S-1

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ATAI Life Sciences B.V.*

(Exact Name of Registrant as Specified in its Charter)

The Netherlands	2834	Not Applicable
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

ATAI Life Sciences B.V.
c/o Mindspace
Krausenstraße 9-10
10117 Berlin, Germany
+49 89 2153 9035
(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

ATAI Life Sciences US Inc.
180 Varick Street
New York, New York 10014
+1 929 207 2670
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Nathan Ajiashvili **Ian D. Schuman** **Oliver Seiler** **Latham & Watkins LLP** **1271 Avenue of the Americas** **New York, New York 10020** **+1 212 906 1200**	**Thomas Schubert** **Bram Bloemers** **Dentons Europe LLP** **Gustav Mahlerplein 2** **Amsterdam 1082 MA** **The Netherlands** **+31 20 795 3953**	**Richard D. Truesdell, Jr.** **Roshni Banker Cariello** **Davis Polk & Wardwell LLP** **450 Lexington Avenue** **New York, New York 10017** **+1 212 450 4000**	**Paul van der Bijl** **NautaDutilh N.V.** **Beethovenstraat 400** **1082 PR Amsterdam** **The Netherlands** **+31 20 717 1000**

Approximate date of commencement of proposed sale to the public: As soon as practicable after this registration statement becomes effective.

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

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

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

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

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

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

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act. ☐

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

(*) We intend to convert the legal form of our company under Dutch law from a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) to a public company (*naamloze vennootschap*) and to change our name from ATAI Life Sciences B.V. to ATAI Life Sciences N.V. prior to the closing of this offering.

EXPLANATORY NOTE

The sole purpose of this Amendment No. 2 to the Registration Statement on Form S-1 is to amend the exhibit index and to submit Exhibits 10.10, 10.26 and 21.1. Accordingly, this Amendment No. 2 consists only of the facing page, this explanatory note, Part II of the Registration Statement, the signature pages to the Registration Statement, the exhibit index and the filed exhibits. No changes are being made to the prospectus and, therefore, the prospectus has been omitted from this filing.

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution.

Expenses	Amount
SEC registration fee	$ 10,910
FINRA filing fee	$ 15,500
Nasdaq listing fee	*
Transfer agent's fee	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Miscellaneous costs	*
Total	*

* To be filed by amendment.

All amounts in the table are estimates except the SEC registration fee, the FINRA filing fee and the Nasdaq listing fee. We will pay all of the expenses of this offering.

Item 14. Indemnification of Directors and Officers.

Under Dutch law, our managing directors and our supervisory directors may be held liable by the registrant for damages in the event of improper or negligent performance of their duties (*onbehoorlijk bestuur*). They may be jointly and severally liable for damages to our company and to third parties for the infringement of our articles of association or certain provisions of Dutch law. In addition, our managing directors and our supervisory directors may be held liable by third parties on the basis of certain provisions of Dutch Law and general principles of tort law. In certain circumstances, they may also incur additional specific criminal liabilities.

The liability of our managing directors and our supervisory directors and other key employees will be covered by a directors' and officers' liability insurance policy. This policy will contain customary limitations and exclusions, such as willful misconduct or intentional recklessness (*opzet of bewuste roekeloosheid*).

Our current and former managing directors and our supervisory directors (and such other current or former officer or employee as designated by the management board) have the benefit of the following indemnification provisions in our articles of association:

Indemnified persons shall be reimbursed for:

(a) any financial losses or damages incurred by such indemnified person; and

(b) any expense reasonably paid or incurred by such indemnified person in connection with any threatened, pending or completed suit, claim, action or legal proceedings of a civil, criminal, administrative or other nature, formal or informal, in which he becomes involved, in each case to the extent this relates to his current or former position with us and/or a group company and in each case to the extent permitted by applicable law.

No indemnification shall be given to an indemnified person:

(a) if a competent court or arbitral tribunal has established, without having (or no longer having) the possibility for appeal, that the acts or omissions of such indemnified person that led to the financial losses, damages, expenses, suit, claim, action or legal proceedings as described above are of an unlawful nature (including acts or omissions, which are considered to constitute malice, gross negligence, intentional recklessness and/or serious culpability attributable to such indemnified person);

(b) to the extent that his financial losses, damages and expenses are covered under insurance and the relevant insurer has settled, or has provided reimbursement for, these financial losses, damages and expenses (or has irrevocably undertaken to do so);

(c) in relation to proceedings brought by such indemnified person against us, except for proceedings brought to enforce indemnification to which he is entitled pursuant to our articles of association, pursuant to an agreement between such indemnified person and us, which has been approved by the management board or pursuant to insurance taken out by us for the benefit of such indemnified person;

(d) for any financial losses, damages or expenses incurred in connection with a settlement of any proceedings effected without the our prior consent.

Under our articles of association, our management board may stipulate additional terms, conditions and restrictions in relation to the indemnification described above.

Item 15. Recent Sales of Unregistered Securities.

During the past three years, we issued securities that were not registered under the Securities Act as set forth below. We believe that each of such issuances was exempt from registration under the Securities Act in reliance on Section 4(a)(2) of the Securities Act, Rule 701 and/or Regulation S under the Securities Act.

The following is a summary of transactions during the preceding three fiscal years involving sales of our securities that were not registered under the Securities Act.

In June 2018, we issued 30,000,000 shares of ATAI Life Sciences AG for an aggregate principal amount of €3,000,000. This capital increase was registered in July 2018.

In October 2018, we issued 12,000,000 Series A shares of ATAI Life Sciences AG for an aggregate principal amount of €21,600,000. This capital increase was registered in October 2018.

Between November 2018 and October 2020, we issued 1,000,000 convertible notes at a purchase price of €1.00 per share, with an exercise price of €17.00 per share, for an aggregate subscription price of €1,000,000 and aggregate proceeds upon exercise of €17,000,000.

In January 2019, we issued 4,193,320 shares of ATAI Life Sciences AG for an aggregate principal amount of €3,727,612. This capital increase was registered in January 2019.

In April 2019, we issued 10,000,000 Series B shares of ATAI Life Sciences AG for an aggregate purchase price of €38,000,000. This capital increase was registered in April 2019.

In January 2020, we issued convertible notes that converted into 2,186,720 Series C shares of ATAI Life Sciences AG for an aggregate principal amount of €10,263,000.

In August 2020, we issued convertible notes that converted into 3,296,440 Series C shares of ATAI Life Sciences AG for an aggregate principal amount of €16,703,000.

In November 2020, we issued 10,666,670 Series C shares of ATAI Life Sciences AG for an aggregate purchase price of €80,000,02.

In January 2021, pursuant to an additional closing under our Series C financing, we issued an additional 1,333,330 Series C shares of ATAI Life Sciences AG for an aggregate purchase price of €9,999,975.

In March 2021, we issued 8,387,100 Series D shares of ATAI Life Sciences AG for an aggregate purchase price of €30,000,050.

In April 2021, in connection with the corporate reorganization, we issued an aggregate of 85,981,110 common shares of ATAI Life Sciences B.V. to the shareholders of ATAI Life Sciences AG, which included accredited investors, director nominees and employees.

Since January 1, 2018, we have issued an aggregate of 200,000 common shares pursuant to the exercise of share options by our executive officers, directors and employees. These issuances were exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act, Rule 701 and/or Regulation S.

Since August 2020, we have granted our executive officers, directors and employees and consultants options to purchase an aggregate of 12,518,740 common shares, at a weighted average exercise price of $5.12 per share under our 2020 Equity Incentive Plan. As of the date hereof, 11,578,760 of such options remain outstanding.

Since August 2020, we have granted selected executive officers, directors and employees options to purchase an aggregate of 4,550,860 common shares, at a weighted average exercise price of €8.72 or $10.63 per share under our Hurdle Share Options Program. As of the date hereof, 4,550,860 of such options remain outstanding.

These issuances were exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act, Rule 701 and/or Regulation S.

No underwriter or underwriting discount or commission was involved in any of the transactions set forth in Item 15.

Item 16. Exhibits and Financial Statement Schedules.

(a) The Exhibit Index is hereby incorporated herein by reference.

(b) Financial Statement Schedules.

All schedules have been omitted because they are not required, are not applicable or the information is otherwise set forth in the consolidated financial statements and related notes thereto.

Item 17. Undertakings.

(a) The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

(b) Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended, or the Securities Act, may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction, the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(c) The undersigned registrant hereby further undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained

in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

EXHIBIT INDEX

Exhibit No.	Description
1.1*	Form of Underwriting Agreement
3.1*	Form of Articles of Association of ATAI Life Sciences N.V. (translated into English), as they will be in effect immediately following the completion of the corporate reorganization
3.2*	Form of internal rules of the management board of ATAI Life Sciences N.V., as they will be in effect prior to the closing of the offering
3.3*	Form of internal rules of the supervisory board of ATAI Life Sciences N.V., as they will be in effect prior to the closing of the offering
3.4*	Form of Share Issue Deed
5.1*	Opinion of Dentons Europe LLP, Dutch counsel of ATAI Life Sciences N.V., as to the validity of the common shares
8.1*	Opinion of Dentons Europe LLP, Dutch counsel of ATAI Life Sciences N.V., as to Dutch tax matters
8.2*	Opinion of Dentons Europe LLP, German counsel of ATAI Life Sciences N.V., as to German tax matters
10.1*#	Service Agreement, dated June 5, 2019, between the Registrant and Florian Brand, as amended by agreement dated , 2021
10.2*#	Amended and Restated Employment Agreement, dated , 2021, between ATAI Life Sciences US, Inc. and Greg Weaver
10.3*#	Amended and Restated Employment Agreement, dated , 2021, between ATAI Life Sciences US, Inc. and Srinivas Rao
10.4*#	Form of Indemnification Agreement between ATAI Life Sciences N.V. and members of the Supervisory Board or Management Board
10.5*#	2021 Incentive Award Plan, as it will be in effect upon the effectiveness of the registration statement
10.6†**	Stock Purchase Agreement, dated as of November 5, 2018, by and between ATAI US 2, Inc. and Jonathan Sporn
10.7†**	License Agreement, dated as of August 14, 2017, between National University Corporation Chiba University and Perception Neurosciences, Inc., as amended by Amendment No. 1, dated as of August 7, 2018, the Second Amendment, dated as of March 17, 2020, and Amendment No. 3, dated as of March 5, 2021
10.8†**	Stock Purchase Agreement, dated as of June 8, 2020, between The Trustees of Columbia University in the City of New York and Kures, Inc.
10.9†**	Exclusive License Agreement, dated as of June 8, 2020, between The Trustees of Columbia University in the City of New York and Kures, Inc.
10.10†	Preferred Stock Purchase Agreement, dated as of August 29, 2019, between GABA Therapeutics, Inc. and ATAI Life Sciences AG, as amended by the Omnibus Amendment, dated as of October 30, 2020
10.11†**	Preferred Stock Purchase Agreement, dated as of December 23, 2019, among Neuronasal, Inc. and ATAI Life Sciences AG
10.12†**	Series A Preferred Stock Purchase Agreement, dated as of December 27, 2019, among DemeRx IB, Inc., ATAI Life Sciences AG and DemeRx, Inc.
10.13†**	Series A Preferred Stock Purchase Agreement, dated as of November 6, 2020, between FSV7, Inc. and ATAI Life Sciences AG
10.14†**	Amended and Restated License Agreement, dated as of February 21, 2020, between Allergan Sales, LLC and FSV7, LLC

Exhibit No.	Description
10.15†**	Consultancy Agreement, dated as of January 16, 2021, between ATAI Life Sciences AG and Christian Angermayer
10.16†**	License and Collaboration Agreement, dated as of March 11, 2021, between Perception Neuroscience, Inc. and Otsuka Pharmaceutical Co., Ltd.
10.17*	Form of Option Award Agreement under 2021 Incentive Award Plan
10.18*	Form of Restricted Stock Award Agreement under 2021 Incentive Award Plan
10.19*	Form of Restricted Stock Unit Agreement under 2021 Incentive Award Plan
10.20*	2020 Employee, Director and Consultant Equity Incentive Plan
10.21*	Form of Stock Option Agreement under 2020 Employee, Director and Consultant Equity Incentive Plan
10.22*	Partnership Agreement of ATAI Life Sciences HSOP GbR, dated August 21, 2020
10.23*	Remuneration Policy for the Board of Supervisory Directors of ATAI Life Sciences N.V.
10.24*	Remuneration Policy for the Board of Managing Directors of ATAI Life Sciences N.V.
10.25*	Amended and Restated Employment Agreement, dated , 2021 between Rolando Gutiérrez Esteinou and ATAI life Sciences US, Inc.
10.26	Amendment to Preferred Stock Purchase Agreement, dated as of May 15, 2021 by and among ATAI Life Sciences AG, GABA Therapeutics, LLC and GABA Therapeutics, Inc.
21.1	List of subsidiaries of the Registrant
23.1**	Consent of Deloitte & Touche LLP, an independent registered public accounting firm
23.2**	Consent of PricewaterhouseCoopers LLP, an independent registered public accounting firm
23.3*	Consent of Dentons Europe LLP (included in Exhibits 5.1 and 8.1)
24.1**	Power of Attorney (included in signature page to Registration Statement)
99.1**	Consent of Michael Auerbach to be named as Director Nominee
99.2**	Consent of Jason Camm to be named as Director Nominee
99.3**	Consent of Alexis de Rosnay to be named as Director Nominee
99.4**	Consent of Andrea Heslin Smiley to be named as Director Nominee
99.5**	Consent of Amir Kalali to be named as Director Nominee
99.6**	Consent of Sabrina Martucci Johnson to be named as Director Nominee
99.7**	Consent of Christian Angermayer to be named as Director Nominee

* To be filed by amendment.
** Previously filed.
# Management contracts and compensatory plans or arrangements.
† Certain confidential portions (indicated by brackets and asterisks) have been omitted from this exhibit.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-1 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Berlin, Germany on June 4, 2021.

ATAI LIFE SCIENCES B.V.

By: /s/ Florian Brand
Name: Florian Brand
Title: Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons on June 4, 2021 in the capacities indicated:

Name	Title
/s/ Florian Brand Florian Brand	Chief Executive Officer and Managing Director (Principal Executive Officer)
/s/ Greg Weaver Greg Weaver	Chief Financial Officer and Managing Director (Principal Financial Officer and Principal Accounting Officer)

Exhibit 10.10

[***] Certain information in this document has been omitted from this exhibit because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed.

PREFERRED STOCK PURCHASE AGREEMENT

GABA THERAPEUTICS, INC.

PREFERRED STOCK PURCHASE AGREEMENT

THIS PREFERRED STOCK PURCHASE AGREEMENT (this "**Agreement**"), is made as of the 29th day of August 2019 by and between GABA THERAPEUTICS, INC., a Delaware corporation (the "**Company**"), and ATAI Life Sciences AG, a German stock corporation or an affiliate thereof ("**ATAI**" or "**Purchaser**").

The parties hereby agree as follows:

1. Purchase and Sale of Preferred Stock.

1.1 Sale and Issuance of Preferred Stock.

(a) The Company shall adopt and file with the Secretary of State of the State of Delaware on or before the Initial Closing (as defined below) the Amended and Restated Certificate of Incorporation in the form of EXHIBIT B attached to this Agreement (the "**Restated Certificate**").

(b) Subject to the terms and conditions of this Agreement, the Purchaser agrees to purchase at the Closing and the Company agrees to sell and issue to the Purchaser at the Closing that number of shares of Series A Preferred Stock, $0.01 par value per share (the "**Series A Preferred Stock**"), set forth opposite the Purchaser's name on Exhibit A, at a purchase price of $[***] per share (the "**Purchase Price**"). The shares of Series A Preferred Stock issued to the Purchasers pursuant to this Agreement (including any shares issued at the Initial Closing and any Milestone Shares, as defined below) shall be referred to in this Agreement as the "**Shares**."

1.2 Closing; Delivery.

(a) The initial purchase and sale of the Shares shall take place remotely via the exchange of documents and signatures, on or about 1 p.m. PST, on August 29, 2019, or at such other time and place as the Company and the Purchaser mutually agree upon, orally or in writing (which time and place are designated as the "**Initial Closing**" and together with any Milestone Closing (as defined in Section 1.3(b) below), each a "**Closing**").

(b) At each Closing, the Company shall deliver to the Purchaser a certificate representing the Shares being purchased by the Purchaser at such Closing against payment of the purchase price therefor by wire transfer to a bank account designated by the Company.

1.3 Sale of Milestone Shares.

(a) After the Initial Closing, the Company shall sell, and the Purchasers shall purchase, on the same terms and conditions as those contained in this Agreement:

(i) [***] shares of Series A Preferred Stock $0.01 par value per share at the Purchase Price on the certification by the Board that the events specified under "Milestone 1" in Exhibit I attached to this Agreement have occurred ("**Milestone 1**"); and

(ii) Up to such number of shares determined by the Board (up to a maximum of $[***] worth of Series A Preferred Stock $0.01 par value per share) at the Purchase Price no later than thirty (30) days following receipt of the certification by the Board that the events specified under "Milestone 2" in Exhibit I attached to this Agreement have occurred ("**Milestone 2**" and together with Milestone 1, the "**Milestones**"); provided, however, that the Purchaser shall have the right, but not the obligation, to purchase the Milestone Shares at any time upon notice to the Company, prior to the achievement of any Milestone.

(b) The date of the purchase and sale of the Milestone Shares are referred to in this Agreement as the "**Milestone Closing**."

(c) Exhibit A to this Agreement shall be updated to reflect the number of Milestone Shares purchased at each such Milestone Closing.

1.4 Use of Proceeds. In accordance with the directions of the Company's Board of Directors, as it shall be constituted in accordance with the Voting Agreement, the Company will use the proceeds from the sale of the Shares for activities in connection with the Company's clinical development plan to achieve the Milestones and, as set forth on Exhibit B, to conduct related pre-clinical studies to submit an Investigational New Drug ("**IND**") application for the Company's lead product candidates to the U.S. Food and Drug Administration ("**FDA**"), and an amount of up to $100,000 to undertake such preparatory activities as may be required in connection with an initial public offering ("**IPO**"). Further IPO- related expenses need to be approved by the Board of Directors.

1.5 Defined Terms Used in this Agreement. In addition to the terms defined above or otherwise in this Agreement, the following terms used in this Agreement shall be construed to have the meanings set forth or referenced below.

(a) "**Affiliate**" means, with respect to any specified Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person, including, without limitation, any general partner, managing member, officer, director or trustee of such Person, or any venture capital fund or registered investment company now or hereafter existing that is controlled by one or more general partners, managing members or investment advisers of, or shares the same management company or investment adviser with, such Person.

(b) "**Code**" means the Internal Revenue Code of 1986, as amended.

(c) "**Company Intellectual Property**" means all patents, patent disclosures and all related continuations, continuations-in-part, divisional, reissues, reexamination, utility models, renewals, extensions, certificates of invention and design patents, patent applications, registrations and applications for registrations; registered and unregistered trademarks, trademark applications, registered and unregistered service marks, service mark applications, tradenames, copyrights, trade secrets, domain names, information and proprietary rights and processes, similar or other intellectual property rights, subject matter of any of the foregoing, tangible embodiments of any of the foregoing, licenses in, to and under any of the foregoing, and any and all such cases that are owned or used by the Company in the conduct of the Company's business as now conducted and as presently proposed to be conducted.

(d) "**Founder**" means GABA Therapeutics LLC.

(e) "**Founder Member**" means each of Ian J. Massey, Richard G. Farrell, David G. Putman, and Oliver Dasse.

(f) "**Indemnification Agreement**" means the agreement between the Company and the director and Purchaser Affiliates designated by the Purchaser entitled to designate a member of the Board of Directors pursuant to the Voting Agreement, dated as of the date of the Initial Closing, in the form of EXHIBIT D attached to this Agreement.

(g) "**Investors' Rights Agreement**" means the agreement among the Company and the Purchasers and certain other stockholders of the Company dated as of the date of the Initial Closing, in the form of EXHIBIT E attached to this Agreement.

(h) "**Knowledge**" including the phrase "**to the Company's knowledge**" shall mean the actual knowledge after reasonable inquiry of any Ian J. Massey and Richard G. Farrell.

(i) "**Material Adverse Effect**" means a material adverse effect on the business, assets (including intangible assets), liabilities, financial condition, property, or results of operations of the Company.

(j) "**Person**" means any individual, corporation, partnership, trust, limited liability company, association or other entity.

(k) "**Right of First Refusal and Co-Sale Agreement**" means the agreement among the Company, the Purchaser, and certain other stockholders of the Company, dated as of the date of the Initial Closing, in the form of Exhibit F attached to this Agreement.

(l) "**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(m) "**Shares**" means the shares of Series A Preferred Stock issued at the Initial Closing and any Milestone Shares issued at a subsequent Closing under Subsection 1.2(b).

(n) "**Transaction Agreements**" means this Agreement, the Investors' Rights Agreement, the Right of First Refusal and Co-Sale Agreement and the Voting Agreement.

(o) "**Voting Agreement**" means the agreement among the Company, the Purchaser and certain other stockholders of the Company, dated as of the date of the Initial Closing, in the form of EXHIBIT G attached to this Agreement.

2. Representations and Warranties of the Company. The Company hereby represents and warrants to the Purchaser that, except as set forth on the Disclosure Schedule attached as Exhibit C to this Agreement, which exceptions shall be deemed to be part of the representations and warranties made hereunder, the following representations are true and complete as of the date of the Initial Closing, except as otherwise indicated. The Disclosure Schedule shall be arranged in sections corresponding to the numbered and lettered sections and subsections contained in this Section 2, and the disclosures in any section or subsection of the Disclosure Schedule shall qualify other sections and subsections in this Section 2 only to the extent it is readily apparent from a reading of the disclosure that such disclosure is applicable to such other sections and subsections.

2.1 Organization, Good Standing, Corporate Power and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted and as presently proposed to be conducted. The Company is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a Material Adverse Effect.

2.2 Capitalization.

(a) The authorized capital of the Company consists, immediately prior to the Initial Closing, of:

(i) [***] shares of common stock, $0.01 par value per share (the "**Common Stock**"), [***] shares of which are issued and outstanding immediately prior to the Initial Closing. All of the outstanding shares of Common Stock have been duly authorized, are fully paid and nonassessable and were issued in compliance with all applicable federal and state securities laws. The Company holds no Common Stock in its treasury.

(ii) 20,000,000 shares of Preferred Stock, of which 20,000,000 shares have been designated Series A Preferred Stock; none of which are issued and outstanding immediately prior to the Initial Closing. The rights, privileges and preferences of the Preferred Stock are as stated in the Restated Certificate and as provided by the Delaware General Corporation Law.

(b) Subsection 2.2(b) of the Disclosure Schedule sets forth the capitalization of the Company immediately following the Initial Closing including the number of shares of the following: (i) issued and outstanding Common Stock, including, with respect to restricted Common Stock, vesting schedule and repurchase price; (ii) granted stock options, including vesting schedule and exercise price; (iii) shares of Common Stock reserved for future award grants under the Stock Plan; (iv) each series of Preferred Stock; and (v) warrants or stock purchase rights, if any. Except for (A) the conversion privileges of the Shares to be issued under this Agreement, and (B) the rights provided in Section 4 of the Investors' Rights Agreement, there are no outstanding options, warrants, rights (including conversion or preemptive rights and rights of first refusal or similar rights) or agreements, orally or in writing, to purchase or acquire from the Company any shares of Common Stock or Series A Preferred Stock, or any securities convertible into or exchangeable for shares of Common Stock or Series A Preferred Stock. All outstanding shares of the Company's Common Stock and all shares of the Company's Common Stock underlying outstanding options are subject to (i) a right of first refusal in favor of the Company upon any proposed transfer (other than transfers for estate planning purposes); and (ii) a lock-up or market standoff agreement of not less than one hundred eighty (180) days following the Company's initial public offering pursuant to a registration statement filed with the Securities and Exchange Commission under the Securities Act.

(c) None of the Company's stock purchase agreements or stock option documents contains a provision for acceleration of vesting (or lapse of a repurchase right) or other changes in the vesting provisions or other terms of such agreement or understanding upon the occurrence of any event or combination of events, including without limitation in the case where the Company's Stock Plan is not assumed in an acquisition. The Company has never adjusted or amended the exercise price of any stock options previously awarded, whether through amendment, cancellation, replacement grant, repricing, or any other means. Except as set forth in the Restated Certificate, the Company has no obligation (contingent or otherwise) to purchase or redeem any of its capital stock.

(d) The Company has obtained valid waivers of any rights by other parties to purchase any of the Shares covered by this Agreement.

2.3 Subsidiaries. The Company does not currently own or control, directly or indirectly, any interest in any other corporation, partnership, trust, joint venture, limited liability company, association, or other business entity. The Company is not a participant in any joint venture, partnership or similar arrangement.

2.4 Authorization. All corporate action required to be taken by the Company's Board of Directors and stockholders in order to authorize the Company to enter into the Transaction Agreements, and to issue the Shares at the Closing and the Common Stock issuable upon conversion of the Shares, has been taken or will be taken prior to the Closing. All action on the part of the officers of the Company necessary for the execution and delivery of the Transaction Agreements, the performance of all obligations of the Company under the Transaction Agreements to be performed as of the Closing, and the issuance and delivery of the Shares has been taken or will be taken prior to the Closing. The Transaction Agreements, when executed and delivered by the Company, shall constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their respective terms except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, or other laws of general application relating to or affecting the enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies, or (iii) to the extent the indemnification provisions contained in the Investors' Rights Agreement and the Indemnification Agreement may be limited by applicable federal or state securities laws.

2.5 Valid Issuance of Shares. The Shares, when issued, sold and delivered in accordance with the terms and for the consideration set forth in this Agreement, will be validly issued, fully paid and nonassessable and free of restrictions on transfer other than restrictions on transfer under the Transaction Agreements, applicable state and federal securities laws and liens or encumbrances created by or imposed by a Purchaser. Assuming the accuracy of the representations of the Purchaser in Section 3 of this Agreement and subject to the filings described in the Voting Agreement, the Shares will be issued in compliance with all applicable federal and state securities laws. The Common Stock issuable upon conversion of the Shares has been duly

reserved for issuance, and upon issuance in accordance with the terms of the Restated Certificate, will be validly issued, fully paid and nonassessable and free of restrictions on transfer other than restrictions on transfer under the Transaction Agreements, applicable federal and state securities laws and liens or encumbrances created by or imposed by a Purchaser. Based in part upon the representations of the Purchaser in Section 3 of this Agreement and in the Voting Agreement, the Common Stock issuable upon conversion of the Shares will be issued in compliance with all applicable federal and state securities laws.

2.6 Governmental Consents and Filings. Assuming the accuracy of the representations made by the Purchaser in Section 3 of this Agreement, no consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority is required on the part of the Company in connection with the consummation of the transactions contemplated by this Agreement, except for (i) the filing of the Restated Certificate, which will have been filed as of the Initial Closing, and (ii) filings pursuant to Regulation D of the Securities Act, to the extent the Company has relied on Rule 506 of Regulation D, and applicable state securities laws, which have been made or will be made in a timely manner.

2.7 Litigation. There is no claim, action, suit, proceeding, arbitration, complaint, charge or investigation pending or to the Company's knowledge, currently threatened (i) against the Company or, to the Company's knowledge, any officer, director of the Company, or any manager, officer or member of Founder (including any Founder Member); or (ii) that questions the validity of the Transaction Agreements or the right of the Company to enter into them, or to consummate the transactions contemplated by the Transaction Agreements; or (iii) to the Company's knowledge, that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect. Neither the Company nor, to the Company's knowledge, any of its officers, directors or Founders is a party or is named as subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality (in the case of officers, directors or Founders, such as would affect the Company) that would reasonably be expected to have a Material Adverse Effect. There is no action, suit, proceeding or investigation by the Company pending or which the Company intends to initiate. The foregoing includes, without limitation, actions, suits, proceedings or investigations pending or threatened in writing (or any basis therefor known to the Company) involving the prior employment of any of the Company's employees, their services provided in connection with the Company's business, any information or techniques allegedly proprietary to any of their former employers or their obligations under any agreements with prior employers.

2.8 Intellectual Property. The Company owns or possesses or can acquire on commercially reasonable terms sufficient legal rights to all Company Intellectual Property without any known conflict with, or infringement of, the rights of others, including prior employees or consultants, or academic or medical institutions with which any of them may be affiliated now or may have been affiliated in the past. No product or product candidate marketed or sold (or proposed to be marketed or sold) by the Company violates or will violate any license or infringes or will infringe any intellectual property rights of any other party. Other than with respect to commercially available software products under standard end- user object code license agreements, there are no outstanding options, licenses, agreements, claims, encumbrances or shared ownership interests of any kind relating to the Company Intellectual Property, nor is the

Company bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, proprietary rights and processes of any other Person. The Company has not received any communications alleging that the Company has violated, or by conducting its business, would violate any of the patents, trademarks, service marks, tradenames, copyrights, trade secrets, mask works or other proprietary rights or processes of any other Person. The Company has obtained and possesses valid licenses to use all of the software programs present on the computers and other software-enabled electronic devices that it owns or leases or that it has otherwise provided to its employees for their use in connection with the Company's business. It will not be necessary to use any inventions of any of its employees or consultants (or Persons it currently intends to hire) made prior to their employment by the Company, including prior employees or consultants, or academic or medical institutions with which any of them may be affiliated now or may have been affiliated in the past. Each employee and consultant has assigned to the Company all intellectual property rights he or she owns that are related to the Company's business as now conducted and as presently proposed to be conducted and all intellectual property rights that he, she or it solely or jointly conceived, reduced to practice, developed or made during the period of his, her or its employment or consulting relationship with the Company that (a) relate, at the time of conception, reduction to practice, development, or making of such intellectual property right, to the Company's business as then conducted or as then proposed to be conducted, (b) were developed on any amount of the Company's time or with the use of any of the Company's equipment, supplies, facilities or information or (c) resulted from the performance of services for the Company. Subsection 2.8 of the Disclosure Schedule lists all patents, patent applications, trademarks, trademark applications, service marks, service mark applications, tradenames, copyrights, and licenses to and under any of the foregoing, in each case owned by the Company. The Company has not embedded any open source, copyleft or community source code in any of its products generally available or in development, including but not limited to any libraries or code licensed under any General Public License, Lesser General Public License or similar license arrangement. For purposes of this Subsection 2.8, the Company shall be deemed to have knowledge of a patent right if the Company has actual knowledge of the patent right or would be found to be on notice of such patent right as determined by reference to United States patent laws. No government funding, facilities of a university, college, other educational institution or research center, or funding from third parties was used in the development of any Company Intellectual Property. No Person who was involved in, or who contributed to, the creation or development of any Company Intellectual Property, has performed services for the government, university, college, or other educational institution or research center in a manner that would affect Company's rights in the Company Intellectual Property.

2.9 Compliance with Other Instruments. The Company is not in violation or default of any provisions of its Restated Certificate or Bylaws, and is not in violation or default the violation of or default of which would have a Material Adverse Effect: (a) of any instrument, judgment, order, writ or decree, (b) under any note, indenture or mortgage, or (c) under any lease, agreement, contract or purchase order to which it is a party or by which it is bound that is required to be listed on the Disclosure Schedule, or (d) of any provision of federal or state statute, rule or regulation applicable to the Company. The execution, delivery and performance of the Transaction Agreements and the consummation of the transactions contemplated by the Transaction Agreements will not result in any such violation or be in conflict with or constitute, with or without the passage of time and giving of notice, either (i) a default under any such provision, instrument, judgment, order, writ, decree, contract or agreement; or (ii) an event which results in the creation of any lien, charge or encumbrance upon any assets of the Company or the suspension, revocation, forfeiture, or nonrenewal of any material permit or license applicable to the Company.

2.10 Agreements; Actions.

(a) Except for the Transaction Agreements and except as disclosed in Subsection 2.10(a) of the Disclosure Schedule, there are no agreements, understandings, instruments, contracts or proposed transactions to which the Company is a party or by which it is bound that involve (i) obligations (contingent or otherwise) of, or payments to, the Company in excess of $100,000, (ii) the license of any patent, copyright, trademark, trade secret or other proprietary right to or from the Company, (iii) the grant of rights to manufacture, produce, assemble, license, market, or sell its products to any other Person that limit the Company's exclusive right to develop, manufacture, assemble, distribute, market or sell its products, or (iv) indemnification by the Company with respect to infringements of proprietary rights.

(b) Except as disclosed in Subsection 2.10(b) of the Disclosure Schedule the Company has not (i) declared or paid any dividends, or authorized or made any distribution upon or with respect to any class or series of its capital stock, (ii) incurred any indebtedness for money borrowed or incurred any other liabilities individually in excess of $100,000 or in excess of $50,000 in the aggregate, (iii) made any loans or advances to any Person, other than ordinary advances for travel expenses, or (iv) sold, exchanged or otherwise disposed of any of its assets or rights, other than the sale of its inventory in the ordinary course of business. For the purposes of (a) and (b) of this Subsection 2.10, all indebtedness, liabilities, agreements, understandings, instruments, contracts and proposed transactions involving the same Person (including Persons the Company has reason to believe are affiliated with each other) shall be aggregated for the purpose of meeting the individual minimum dollar amounts of such subsection.

(c) The Company is not a guarantor or indemnitor of any indebtedness of any other Person.

2.11 Certain Transactions.

(a) Other than (i) standard employee benefits generally made available to all employees, (ii) standard director and officer indemnification agreements approved by the Board of Directors, and (iii) the purchase of shares of the Company's capital stock and the issuance of options to purchase shares of the Company's Common Stock, in each instance, approved in the written minutes of the Board of Directors (previously provided to the Purchaser or its counsel), and other than the grant of certain securities to the Company's Chief Medical Officer, there are no agreements, understandings or proposed transactions between the Company and any of its officers, directors, consultants or the Founder or any Founder Member, or any Affiliate thereof.

(b) The Company is not indebted, directly or indirectly, to any of its directors, officers or employees or to their respective spouses or children or to any Affiliate of any of the foregoing, other than in connection with expenses or advances of expenses incurred in the ordinary course of business or employee relocation expenses and for other customary employee benefits made generally available to all employees. None of the Company's directors, officers or

employees, or any members of their immediate families, or any Affiliate of the foregoing are, directly or indirectly, indebted to the Company or, to the Company's knowledge, have any (i) material commercial, industrial, banking, consulting, legal, accounting, charitable or familial relationship with any of the Company's customers, suppliers, service providers, joint venture partners, licensees and competitors, (ii) direct or indirect ownership interest in any firm or corporation with which the Company is affiliated or with which the Company has a business relationship, or any firm or corporation which competes with the Company except that directors, officers, employees or stockholders of the Company may own stock in (but not exceeding two percent (2%) of the outstanding capital stock of) publicly traded companies that may compete with the Company; or (iii) financial interest in any contract with the Company.

2.12 Rights of Registration and Voting Rights. Except as provided in the Investors' Rights Agreement, the Company is not under any obligation to register under the Securities Act any of its currently outstanding securities or any securities issuable upon exercise or conversion of its currently outstanding securities. To the Company's knowledge, except as contemplated in the Voting Agreement, no stockholder of the Company has entered into any agreements with respect to the voting of capital shares of the Company.

2.13 Property. The property and assets that the Company owns are free and clear of all mortgages, deeds of trust, liens, loans and encumbrances, except for statutory liens for the payment of current taxes that are not yet delinquent and encumbrances and liens that arise in the ordinary course of business and do not materially impair the Company's ownership or use of such property or assets. With respect to the property and assets it leases, the Company is in compliance with such leases and holds a valid leasehold interest free of any liens, claims or encumbrances other than those of the lessors of such property or assets. The Company does not own any real property.

2.14 Material Liabilities. The Company has no liability or obligation, absolute or contingent (individually or in the aggregate), except (i) obligations and liabilities incurred after the date of incorporation in the ordinary course of business that are not material, individually or in the aggregate, and (ii) obligations under contracts made in the ordinary course of business that would not be required to be reflected in financial statements prepared in accordance with GAAP.

2.15 Employee Matters.

(a) As of the date hereof, the Company employs four (4) full-time employees and no part-time employees and engages no consultants or independent contractors. Subsection 2.15 of the Disclosure Schedule sets forth a detailed description of all compensation, including salary, bonus, severance obligations and deferred compensation paid or payable for each officer, employee, consultant and independent contractor of the Company.

(b) None of the Company's employees is obligated under any contract (including licenses, covenants or commitments of any nature) or other agreement, or subject to any judgment, decree or order of any court or administrative agency, that would materially interfere with such employee's ability to promote the interest of the Company or that would conflict with the Company's business. Neither the execution or delivery of the Transaction Agreements, nor the carrying on of the Company's business by the employees of the Company, nor the conduct of the Company's business as now conducted and as presently proposed to be conducted, will, to the Company's knowledge, conflict with or result in a breach of the terms, conditions, or provisions of, or constitute a default under, any contract, covenant or instrument under which any such employee is now obligated.

(c) The Company is not delinquent in payments to any of its employees, consultants, or independent contractors for any wages, salaries, commissions, bonuses, or other direct compensation for any service performed for it to the date hereof or amounts required to be reimbursed to such employees, consultants or independent contractors. The Company has complied in all material respects with all applicable state and federal equal employment opportunity laws and with other laws related to employment, including those related to wages, hours, worker classification and collective bargaining. The Company has withheld and paid to the appropriate governmental entity or is holding for payment not yet due to such governmental entity all amounts required to be withheld from employees of the Company and is not liable for any arrears of wages, taxes, penalties or other sums for failure to comply with any of the foregoing.

(d) To the Company's knowledge, no Founder Member who is an employee or consultant of the Company intends to terminate such employment or consulting relationship with the Company or is otherwise likely to become unavailable to continue in his correct role. The employment of each employee of the Company is terminable at the will of the Company. Except as set forth in Subsection 2.15 of the Disclosure Schedule or as required by law, upon termination of the employment of any such employees, no severance or other payments will become due. Except as set forth in Subsection 2.15 of the Disclosure Schedule, the Company has no policy, practice, plan or program of paying severance pay or any form of severance compensation in connection with the termination of employment services.

(e) The Company has not made any representations regarding equity incentives to any officer, employee, director or consultant that are inconsistent with the share amounts and terms set forth in the minutes of meetings of the Company's Board of Directors.

(f) Each former employee of the Company whose employment was terminated by the Company has entered into an agreement with the Company providing for the full release of any claims against the Company or any related party arising out of such employment.

(g) Subsection 2.15 of the Disclosure Schedule sets forth each employee benefit plan maintained, established or sponsored by the Company, or which the Company participates in or contributes to, which is subject to the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"). The Company has made all required contributions and has no liability to any such employee benefit plan, other than liability for health plan continuation coverage described in Part 6 of Title I(B) of ERISA, and has complied in all material respects with all applicable laws for any such employee benefit plan.

(h) To the Company's knowledge, none of the Founder Members or directors of the Company has been (a) subject to voluntary or involuntary petition under the federal bankruptcy laws or any state insolvency law or the appointment of a receiver, fiscal agent or similar officer by a court for his or her business or property; (b) convicted in a criminal proceeding or named as a subject of a pending criminal proceeding (excluding traffic violations and other minor

offenses); (c) subject to any order, judgment or decree (not subsequently reversed, suspended, or vacated) of any court of competent jurisdiction permanently or temporarily enjoining him or her from engaging, or otherwise imposing limits or conditions on his or her engagement in any securities, investment advisory, banking, insurance, or other type of business or acting as an officer or director of a public company; or (d) found by a court of competent jurisdiction in a civil action or by the Securities and Exchange Commission or the Commodity Futures Trading Commission to have violated any federal or state securities, commodities, or unfair trade practices law, which such judgment or finding has not been subsequently reversed, suspended, or vacated.

2.16 Tax Returns and Payments. There are no federal, state, county, local or foreign taxes due and payable by the Company which have not been timely paid. There are no accrued and unpaid federal, state, country, local or foreign taxes of the Company which are due, whether or not assessed or disputed. There have been no examinations or audits of any tax returns or reports by any applicable federal, state, local or foreign governmental agency. The Company has duly and timely filed all federal, state, county, local and foreign tax returns required to have been filed by it and there are in effect no waivers of applicable statutes of limitations with respect to taxes for any year.

2.17 Insurance. The Company has in full force and effect insurance policies concerning such casualties as would be reasonable and customary for companies like the Company.

2.18 Employee Agreements. Each current and former employee, consultant and officer of the Company has executed an agreement with the Company regarding confidentiality and proprietary information substantially in the form or forms delivered to the counsel for the Purchaser (the "**Confidential Information Agreements**"). No current or former employee of the Company has excluded works or inventions from his or her assignment of inventions pursuant to such employee's Confidential Information Agreement. The Company is not aware that any of the Founder Members or any Company employees is in violation of any agreement covered by this Subsection 2.18.

2.19 Permits. The Company has all franchises, permits, licenses and any similar authority necessary for the conduct of its business, the lack of which could reasonably be expected to have a Material Adverse Effect. The Company is not in default in any material respect under any of such franchises, permits, licenses or other similar authority.

2.20 Corporate Documents. The Restated Certificate and Bylaws of the Company are in the form provided to the Purchaser. The copy of the minute books of the Company provided to the Purchaser contains minutes of all meetings of directors and stockholders and all actions by written consent without a meeting by the directors and stockholders since the date of incorporation and accurately reflects in all material respects all actions by the directors (and any committee of directors) and stockholders with respect to all transactions referred to in such minutes.

2.21 Qualified Small Business Stock. As of and immediately following the Closing: (i) the Company will be an eligible corporation as defined in Section 1202(e)(4) of the Code, (ii) the Company will not have made purchases of its own stock described in Code Section 1202(c)(3)(B) during the one (1) year period preceding the Initial Closing, except for purchases that are disregarded for such purposes under Treasury Regulation Section 1.1202-2, and (iii) the Company's aggregate gross assets, as defined by Code Section 1202(d)(2), at no time between its incorporation and through the Initial Closing have exceeded $50 million, taking into account the assets of any corporations required to be aggregated with the Company in accordance with Code Section 1202(d)(3); provided, however, that in no event shall the Company be liable to the Purchaser or any other party for any damages arising from any subsequently proven or identified error in the Company's determination with respect to the applicability or interpretation of Code Section 1202, unless such determination shall have been given by the Company in a manner either grossly negligent or fraudulent.

2.22 Disclosure. The Company has made available to the Purchaser all the information reasonably available to the Company that the Purchaser have requested for deciding whether to acquire the Shares, including certain of the Company's projections describing its proposed business plan (the "**Business Plan**"). No representation or warranty of the Company contained in this Agreement, as qualified by the Disclosure Schedule, and no certificate furnished or to be furnished to Purchaser at the Closing contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances under which they were made. The Business Plan was prepared in good faith; however, the Company does not warrant that it will achieve any results projected in the Business Plan. It is understood that this representation is qualified by the fact that the Company has not delivered to the Purchaser, and has not been requested to deliver, a private placement or similar memorandum or any written disclosure of the types of information customarily furnished to purchasers of securities.

2.23 Foreign Corrupt Practices Act. Neither the Company nor any of its directors, officers or employees have, directly or indirectly, made, offered, promised or authorized any payment or gift of any money or anything of value to or for the benefit of any "foreign official" (as such term is defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "**FCPA**")), foreign political party or official thereof or candidate for foreign political office for the purpose of (i) influencing any official act or decision of such official, party or candidate, (ii) inducing such official, party or candidate to use his, her or its influence to affect any act or decision of a foreign governmental authority, or (iii) securing any improper advantage, in the case of (i), (ii) and (iii) above in order to assist the Company or any of its affiliates in obtaining or retaining business for or with, or directing business to, any person. Neither the Company nor any of its directors, officers or employees have made or authorized any bribe, rebate, payoff, influence payment, kickback or other unlawful payment of funds or received or retained any funds in violation of any law, rule or regulation. Neither the Company nor, to the Company's knowledge, any of its officers, directors or employees are the subject of any allegation, voluntary disclosure, investigation, prosecution or other enforcement action related to the FCPA or any other anti-corruption law (collectively, "**Enforcement Action**").

2.24 Preclinical Development. The studies, tests and preclinical development and clinical trials, if any, conducted by or on behalf of the Company are being conducted in all material respects in accordance with experimental protocols, procedures and controls pursuant to accepted professional and scientific standards for products or product candidates comparable to those being developed by the Company and all applicable laws and regulations, including the Federal Food, Drug, and Cosmetic Act and 21 C.F.R. parts 50, 54, 56, 58, 312, and 812. The descriptions of, protocols for, and data and other results of, the studies, tests, development and trials conducted by or on behalf of the Company that have been furnished or made available to the Purchaser are accurate and complete. The Company is not aware of any studies, tests, development or trials the results of which reasonably call into question the results of the studies, tests, and the proposed development conducted by or on behalf of the Company, and the Company has not received any notices or correspondence from the FDA or any other Governmental Entity or any Institutional Review Board or comparable authority requiring the termination, suspension or material modification of any studies, tests, preclinical development or clinical trials conducted by or on behalf of the Company.

3. Representations and Warranties of the Purchaser. The Purchaser hereby represents and warrants to the Company, severally and not jointly, that:

3.1 Authorization. The Purchaser has full power and authority to enter into the Transaction Agreements. The Transaction Agreements to which the Purchaser is a party, when executed and delivered by the Purchaser, will constitute valid and legally binding obligations of the Purchaser, enforceable in accordance with their terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and any other laws of general application affecting enforcement of creditors' rights generally, and as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies, or (b) to the extent the indemnification provisions contained in the Investors' Rights Agreement may be limited by applicable federal or state securities laws.

3.2 Purchase Entirely for Own Account. This Agreement is made with the Purchaser in reliance upon the Purchaser's representation to the Company, which by the Purchaser's execution of this Agreement, the Purchaser hereby confirms, that the Shares to be acquired by the Purchaser will be acquired for investment for the Purchaser's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that the Purchaser has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, the Purchaser further represents that the Purchaser does not presently have any contract, undertaking, agreement or arrangement with any Person to sell, transfer or grant participations to such Person or to any third Person, with respect to any of the Shares. The Purchaser has not been formed for the specific purpose of acquiring the Shares.

3.3 Disclosure of Information. The Purchaser has had an opportunity to discuss the Company's business, management, financial affairs and the terms and conditions of the offering of the Shares with the Company's management and has had an opportunity to review the Company's facilities. The foregoing, however, does not limit or modify the representations and warranties of the Company in Section 2 of this Agreement or the right of the Purchaser to rely thereon.

3.4 Restricted Securities. The Purchaser understands that the Shares have not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of the Purchaser's representations as expressed herein. The Purchaser understands that the Shares are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to these laws, the Purchaser must hold the Shares indefinitely unless they are registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available. The Purchaser acknowledges that the Company has no obligation to register or qualify the Shares, or the Common Stock into which it may be converted, for resale except as set forth in the Investors' Rights Agreement. The Purchaser further acknowledges that if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Shares, and on requirements relating to the Company which are outside of the Purchaser's control, and which the Company is under no obligation and may not be able to satisfy.

3.5 No Public Market. The Purchaser understands that no public market now exists for the Shares, and that the Company has made no assurances that a public market will ever exist for the Shares.

3.6 Legends. The Purchaser understands that the Shares and any securities issued in respect of or exchange for the Shares, may be notated with one or all of the following legends:

"THE SHARES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH TRANSFER MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933."

(a) Any legend set forth in, or required by, the other Transaction Agreements.

(b) Any legend required by the securities laws of any state to the extent such laws are applicable to the Shares represented by the certificate, instrument, or book entry so legended.

3.7 Accredited Investor. The Purchaser is an accredited investor as defined in Rule 501(a) of Regulation D promulgated under the Securities Act.

3.8 Foreign Investors. If the Purchaser is not a United States person (as defined by Section 7701(a)(30) of the Code), the Purchaser hereby represents that it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Shares or any use of this Agreement, including (i) the legal requirements within its jurisdiction for the purchase of the Shares, (ii) any foreign exchange restrictions applicable to such purchase, (iii) any governmental or other consents that may need to be obtained, and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale, or transfer of the Shares. The Purchaser's subscription and payment for and continued beneficial ownership of the Shares will not violate any applicable securities or other laws of the Purchaser's jurisdiction.

3.9 No General Solicitation. Neither the Purchaser, nor any of its officers, directors, employees, agents, stockholders or partners has either directly or indirectly, including, through a broker or finder (a) engaged in any general solicitation, or (b) published any advertisement in connection with the offer and sale of the Shares.

3.10 Exculpation Among Purchaser. The Purchaser acknowledges that it is not relying upon any Person, other than the Company, in making its investment or decision to invest in the Company. The Purchaser agrees that neither the Purchaser nor the respective controlling Persons, officers, directors, partners, agents, or employees of the Purchaser shall be liable to any other Purchaser for any action heretofore taken or omitted to be taken by any of them in connection with the purchase of the Shares.

3.11 Residence. If the Purchaser is an individual, then the Purchaser resides in the state or province identified in the address of the Purchaser set forth on Exhibit A; if the Purchaser is a partnership, corporation, limited liability company or other entity, then the office or offices of the Purchaser in which its principal place of business is identified in the address or addresses of the Purchaser set forth on Exhibit A.

4. Conditions to the Purchaser's Obligations at each Closing. The obligations of the Purchaser to purchase Shares at the Initial Closing or any Milestone Closing are subject to the fulfillment, on or before such Closing, of each of the following conditions, unless otherwise waived:

4.1 Representations and Warranties. The representations and warranties of the Company contained in Section 2 shall be true and correct in all respects as of such Closing.

4.2 Performance. The Company shall have performed and complied with all covenants, agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by the Company on or before such Closing.

4.3 Compliance Certificate. The President of the Company shall deliver to the Purchaser at such Closing a certificate certifying that the conditions specified in Subsections 4.1 and 4.2 have been fulfilled.

4.4 Qualifications. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall be obtained and effective as of such Closing.

4.5 Opinion of Company Counsel. The Purchaser shall have received from Mayer Brown LLP, counsel for the Company, an opinion, dated as of the Initial Closing, in substantially the form of Exhibit H attached to this Agreement.

4.6 Indemnification Agreement. The Company shall have executed and delivered the Indemnification Agreements.

4.7 Investors' Rights Agreement. The Company and the Purchaser (other than the Purchaser relying upon this condition to excuse the Purchaser's performance hereunder) and the other stockholders of the Company named as parties thereto shall have executed and delivered the Investors' Rights Agreement.

4.8 Right of First Refusal and Co-Sale Agreement. The Company, the Purchaser (other than the Purchaser relying upon this condition to excuse the Purchaser's performance hereunder), and the other stockholders of the Company named as parties thereto shall have executed and delivered the Right of First Refusal and Co-Sale Agreement.

4.9 Voting Agreement. The Company, the Purchaser (other than the Purchaser relying upon this condition to excuse the Purchaser's performance hereunder), and the other stockholders of the Company named as parties thereto shall have executed and delivered the Voting Agreement.

4.10 Employment Agreement. The Company and each Founder Member shall have executed and delivered an employment agreement for such in such form as has been agreed between the Company, such Founder Member and the Purchaser.

4.11 Restated Certificate. The Company shall have filed the Restated Certificate with the Secretary of State of Delaware on or prior to the Closing, which shall continue to be in full force and effect as of the Closing.

4.12 D&O Insurance. The Company shall have obtained director and officers insurance from a reputable insurer in such amounts and as otherwise customary for a company engaged in a similar business as the Company and at a comparable stage of development to the Company all of which shall be reasonably satisfactory to the Board of Directors.

4.13 Secretary's Certificate. The Secretary of the Company shall have delivered to the Purchaser at the Closing a certificate certifying (i) the bylaws of the Company, and (ii) the joint resolutions of the Board of Directors of the Company approving the Transaction Agreements and the transactions contemplated under the Transaction Agreements and the sole stockholder of the Company approving the Restated Certificate.

4.14 Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated at the Closing and all documents incident thereto shall be reasonably satisfactory in form and substance to the Purchaser, and the Purchaser (or its counsel) shall have received all such counterpart original and certified or other copies of such documents as reasonably requested. Such documents may include good standing certificates.

4.15 Post-Closing Covenants. In connection with the Closing, the Company shall establish a stock option plan not exceeding [***]% of the Company's equity on a fully diluted basis, on such terms and conditions as the Board of Directors of the Company shall approve, provided, however, that it is understood that (unless otherwise agreed by the Board of Directors) the Founder Members shall not receive additional options or other equity securities in the Company and (ii) the shares of common stock of the Company held by any optionee will be non-voting.

5. Conditions of the Company's Obligations at each Closing. The obligations of the Company to sell Shares to the Purchaser at the Initial Closing or any Milestone Closing are subject to the fulfillment, on or before the Closing, of each of the following conditions, unless otherwise waived:

5.1 Representations and Warranties. The representations and warranties of the Purchaser contained in Section 3 shall be true and correct in all respects as of such Closing.

5.2 Performance. The Purchaser shall have performed and complied with all covenants, agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by them on or before such Closing.

5.3 Qualifications. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall be obtained and effective as of the Closing.

6. Miscellaneous.

6.1 Survival of Warranties. Unless otherwise set forth in this Agreement, the representations and warranties of the Company and the Purchaser contained in or made pursuant to this Agreement shall survive for two years following the execution and delivery of this Agreement and the Closing and shall in no way be affected by any investigation or knowledge of the subject matter thereof made by or on behalf of the Purchaser or the Company.

6.2 Successors and Assigns. This Agreement, and the rights and obligations of the Purchaser hereunder, may be assigned by the Purchaser only to an Affiliate of the Purchaser, and, in such case, such transferee shall be deemed a "Purchaser" for purposes of this Agreement; provided that each such assignment of rights shall be contingent upon the transferee providing a written instrument to the Company notifying the Company of such transfer and assignment and agreeing in writing to be bound by the terms of this Agreement. The Company may not assign its rights under this Agreement. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

6.3 Governing Law. This Agreement shall be governed by the internal law of the State of New York, without regard to conflict of law principles that would result in the application of any law other than the law of the State of New York.

6.4 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, *e.g.*, www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

6.5 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

6.6 Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the party to be notified, (b) when sent, if sent by electronic mail during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their address as set forth on the signature page or Exhibit A, or to such e-mail address or address as subsequently modified by written notice given in accordance with this Subsection 6.6. If notice is given to the Company, a copy shall also be sent to Anna T. Pinedo, Mayer Brown LLP at apinedo@mayerbrown.com and if notice is given to the Purchaser, a copy shall also be given to Kristina Beirne, Dentons US LLP at kristina.beirne@dentons.com.

6.7 No Finder's Fees. Each party represents that it neither is nor will be obligated for any finder's fee or commission in connection with this transaction. The Purchaser agrees to indemnify and to hold harmless the Company from any liability for any commission or compensation in the nature of a finder's or broker's fee arising out of this transaction (and the costs and expenses of defending against such liability or asserted liability) for which the Purchaser or any of its officers, employees or representatives is responsible. The Company agrees to indemnify and hold harmless the Purchaser from any liability for any commission or compensation in the nature of a finder's or broker's fee arising out of this transaction (and the costs and expenses of defending against such liability or asserted liability) for which the Company or any of its officers, employees or representatives is responsible.

6.8 Fees and Expenses. At the Closing, the Company shall pay the reasonable fees and expenses of Dentons US LLP, the counsel for Purchaser, in an amount not to exceed, in the aggregate, $75,000.

6.9 Attorneys' Fees. If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of any of the Transaction Agreements, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

6.10 Amendments and Waivers. Except as set forth in Subsection 1.3(a) of this Agreement, any term of this Agreement may be amended, terminated or waived only with the written consent of the Company and the holders of at least a majority of the then-outstanding shares of Series A Preferred Stock. Any amendment or waiver effected in accordance with this Subsection 6.10 shall be binding upon the Purchaser and each transferee of the Shares (or the Common Stock issuable upon conversion thereof), each future holder of all such securities, and the Company.

6.11 Severability. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.

6.12 Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

6.13 Entire Agreement. This Agreement (including the Exhibits hereto), the Restated Certificate and the other Transaction Agreements constitute the full and entire understanding and agreement between the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties are expressly canceled.

6.14 Termination of Closing Obligations. The Purchaser shall have the right to terminate its obligations to complete any Milestone Closing, as the case may be, if prior to the occurrence thereof, any of the following occurs:

(a) the Company consummates a Deemed Liquidation Event (as defined in the Restated Certificate); or

(b) the Company (i) applies for or consents to the appointment of a receiver, trustee, custodian or liquidator of itself or substantially all of its property, (ii) becomes subject to the appointment of a receiver, trustee, custodian or liquidator of itself or substantially all of its property, (iii) makes an assignment for the benefit of creditors, (iv) institutes any proceedings under the United States Bankruptcy Code or any other federal or state bankruptcy, reorganization, receivership, insolvency or other similar law affecting the rights of creditors generally, or files a petition or answer seeking reorganization or an arrangement with creditors to take advantage of any insolvency law, or files an answer admitting the material allegations of a bankruptcy, reorganization or insolvency petition filed against it, or (v) becomes subject to any involuntary proceedings under the United States Bankruptcy Code or any other federal or state bankruptcy, reorganization, receivership, insolvency or other similar law affecting the rights of creditors generally, when proceeding is not dismissed within thirty (30) days of filing, or have an order for relief entered against it in any proceedings under the United States Bankruptcy Code.

6.15 Dispute Resolution. The parties (a) hereby irrevocably and unconditionally submit to the jurisdiction of the state and federal courts located in the State of New York for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement, (b) agree not to commence any suit, action or other proceeding arising out of or based upon this Agreement except in the state or federal courts located in the State of New York, and (c) hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court.

WAIVER OF JURY TRIAL: EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS, THE SECURITIES OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL- ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER WARRANTS AND REPRESENTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL

6.16 No Commitment for Additional Financing. The Company acknowledges and agrees that no Purchaser has made any representation, undertaking, commitment or agreement to provide or assist the Company in obtaining any financing, investment or other assistance, other than the purchase of the Shares as set forth herein and subject to the conditions set forth herein and cooperation in connection with the Company's proposed initial public offering ("IPO") as described in the Transaction Documents. In addition, the Company acknowledges and agrees that (i) no statements, whether written or oral, made by the Purchaser or its representatives on or after the date of this Agreement shall create an obligation, commitment or agreement to provide or assist the Company in obtaining any financing or investment, (ii) the Company shall not rely on any such statement by the Purchaser or its representatives, and (iii) an obligation, commitment or agreement to provide or assist the Company in obtaining any financing or investment may only be created by a written agreement, signed by the Purchaser and the Company, setting forth the terms and conditions of such financing or investment and stating that the parties intend for such writing to be a binding obligation or agreement. The Purchaser shall have the right, in its sole and absolute discretion, to refuse or decline to participate in any other financing of or investment in the Company, and shall have no obligation, other than in connection with the IPO, to assist or cooperate with the Company in obtaining any financing, investment or other assistance.

6.17 No Further Issuances. Until all the Milestones have been achieved, other than as approved by the Board of Directors of the Company (including the affirmative vote of at least two (2) of the directors nominated by the Purchaser), the Company will not (i) issue any additional capital stock or other equity securities of the Company (including securities convertible into or exchangeable for such equity securities) other than the Preferred Stock issued at any Milestone Closing, or (ii) take uncoordinated action to solicit, initiate, encourage or assist the submission of any proposal, negotiation or offer from any person or entity other than the Purchaser relating to the sale or issuance, of any of the capital stock of the Company or the acquisition, sale, lease, license or other disposition of the Company or any material part of the stock or assets of the Company and shall notify the Purchaser promptly of any inquiries by any third parties in regards to the foregoing.

IN WITNESS WHEREOF, the parties have executed this Preferred Stock Purchase Agreement as of the date first written above.

COMPANY

GABA THERAPEUTICS, INC.:

By: /s/ Richard Farrell

Name: Richard Farrell

Title: Vice President and Treasurer

Address: 5000 Birch Street, West Tower,

Suite 3000 Newport Beach, CA 92660

[Signature page to preferred Stock Purchase Agreement]

PURCHASER

ATAI LIFE SCIENCES AG

By: /s/ Florian Brand

Name: Florian Brand

Title: Vorstand (Chief Executive Officer)

Address: Barer Str. 7, 80333 Munich, Germany

[Signature page to preferred Stock Purchase Agreement]

OMNIBUS AMENDMENT

THIS OMNIBUS AMENDMENT (this "**Amendment**") is entered into as of October 30, 2020, by and among ATAI LIFE SCIENCES AG, a German corporation ("**ATAI**"), GABA THERAPEUTICS, LLC, a Delaware limited liability company ("**Founder**" and referred to together with ATAI, as "**Shareholders**"), and GABA THERAPEUTICS, INC., a Delaware corporation (the "**Company**").

W I T N E S S E T H:

A. The Shareholders and the Company have entered into (i) that certain PREFERRED STOCK PURCHASE AGREEMENT (the "**SPA**"), (ii) that certain RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT (the "**ROFR Agreement**"), (iii) that certain INVESTORS' RIGHTS AGREEMENT (the "**IRA**"), and (iv) that certain VOTING AGREEMENT (the "**VA**"), each dated as of August 29, 2019 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, collectively, the "**Agreements**").

B. Pursuant to Section 6.17 of the SPA, other than as permitted by such clause, the Company has agreed to refrain from issuances of additional equity securities, and from taking certain actions relating to the sale or issuance of any of the capital stock, of the Company or the acquisition, sale, lease, license or other disposition of the Company or of a material part of the stock or assets of the Company (as further set forth therein, the "**No Further Issuances Clause**").

C. Pursuant to Section 4.1 of the IRA, subject to the terms and conditions of such clause, the Company is required to first offer any New Securities (as defined therein) to ATAI as the Investor (as defined in the IRA) (as further set forth therein, the "**Preemptive Rights Clause**").

D. The Shareholders and the Company desire to amend or waive certain clauses of the Agreements, [***], subject to the terms and conditions (including conditions to effectiveness) set forth below.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Defined Terms. Capitalized terms used herein (including in the preamble and recitals above) but not otherwise defined herein shall have the respective meanings ascribed to such terms in the SPA.

SECTION 2. Amendments to ROFR Agreement. The parties hereby agree that the ROFR Agreement shall be amended as set forth below:

(a) Section 2.4(a) of the ROFR Agreement shall hereby be amended by deleting it in its entirety and replacing it with the following:

"(a) Grant. Upon one (1) day prior written notice, but in any event on or before November 6, 2020 (the "**Call Option Termination Date**"), Founder hereby unconditionally and irrevocably grants to Investor the right to purchase [***] shares of Common Stock then held by Founder at the price and subject to the conditions set forth in this Section 2.4 (the "**Call Option**"). For purposes of this Section 2.4, "Investor" shall refer solely to ATAI Life Sciences AG and its permitted successors and assigns or any direct or indirect parent entity thereof. For clarity, the total cost of Investor's potential exercise of the Call Option hereunder is limited to the Call Option price set forth in Section 2.4, and no other amounts (including, without limitation, any Milestone Payments) will be due or owing for any such exercise. Any amounts owing pursuant to this Section 2.4(a) will be paid to Founder by such Investor within thirty (30) days of its exercise of the Call Option."

(b) Section 2.4(c) of the ROFR Agreement shall hereby be amended by deleting it in its entirety and replacing it with the following:

"(c) Call Option Price. The purchase price per share for the shares subject to the Call Option shall be $[***] per share."

SECTION 3. Amendments to VA. The parties hereby agree that the VA shall be amended as set forth below:

(a) Section 1.2(b) of the VA shall hereby be amended by deleting it in its entirety and replacing it with the following:

"(b)(i) One person designated from time to time by the Founder (excluding, for these purposes, the Anvyl Partners (as defined below)), which individual shall initially be Richard Farrell as of November 6, 2020, and one person designated from time to time by the original discoverers of both S- etifoxine and deuterated etifoxine (the "Anvyl Partners"), which individual shall initially be Ian Massey as of November 6, 2020, in both cases only for so long as the Founder and its Affiliates (as defined below) continue to own beneficially at least 50% of the shares of Common Stock (including shares of Common Stock issued or issuable upon conversion of any Preferred Stock) held by them at the Initial Closing; and

(ii) The Founder hereby agrees that it will not coordinate with any of the Anvyl Partners with respect to any rights or obligations under this Agreement, the Agreements, or otherwise enter into any voting agreement, buy/sell or any other arrangement, which shall modify the Founders' or the Anvyl Partners' rights under this Agreement; and"

SECTION 4. Amendments to the IRA. The parties hereby agree that the IRA shall be amended as set forth below:

(a) Section 4.1(b) of the IRA shall hereby be amended by deleting it in its entirety and replacing it with the following:

"(b) By notification to the Company within twenty (20) days after the Offer Notice is given, each Investor may elect to purchase, at the price and on the terms specified in the Offer Notice, up to that portion of such New Securities which equals the proportion that the Common Stock then held by such Investor (including all shares of Common Stock then issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other Derivative Securities then held by such Investor) bears to the total Common Stock of the Company then outstanding (assuming full conversion and/or exercise, as applicable, of all Preferred Stock and any other Derivative Securities then outstanding). The closing of any sale pursuant to this Subsection 4.1(b) shall occur within the later of ninety (90) days of the date that the Offer Notice is given and the date of initial sale of New Securities pursuant to Subsection 4.1(c)."

SECTION 5. Forbearance/Amendment of No Further Issuances Clause. Commencing immediately following ATAI's (or any successor entity's or any direct or indirect parent entity thereof) initial public offering of its capital stock (or other transaction that has the effect of resulting in the listing of ATAI's (or such successor entity's or any direct or indirect parent entity thereof) equity securities on a national or international securities exchange), [***], ATAI shall support the Company's growth and development by (i) not exercising the No Further Issuances Clause in order to, and to the extent reasonably necessary to, [***], and (ii) not purchase the Milestone Shares attributable to Milestone 2 absent receipt of the certification by the Board that Milestone 2 has occurred; provided, however, that ATAI may exercise its right to purchase such Milestone Shares, upon written notice to the Company, immediately preceding (a) any BOD approved sale or acquisition of the Company or of substantially all of the stock or assets of the Company (including by way of an option or license), or (b) the Company entering any agreement to do any of the foregoing; provided, that, in the case of an option or license agreement for which a material portion of the economic benefit to the Company is contingent upon future conditions, [***.]

SECTION 6. Further Assurances. Each of the parties hereto agrees to execute, acknowledge, seal and deliver, after the date hereof, without additional consideration, such further assurances, instruments and documents, and to take such further actions, as another party may reasonably request in order to fulfill the intent of this agreement and the transactions contemplated hereby.

SECTION 7. Counterparts. This Amendment may be executed in any number of counterparts and by the different parties hereto on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Amendment. Receipt by facsimile or other electronic transmission (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.hellosign.com) of any executed signature page to this Amendment shall constitute effective delivery of such signature page.

SECTION 8. Agreements. Other than as specifically set forth herein, the Agreements shall remain in full force and effect.

SECTION 9. Miscellaneous. Sections 6.2, 6.3, 6.5 through 6.13 and 6.15 of the SPA (or any successor provisions thereto) shall apply to this Amendment *mutatis mutandis*.

[Signature Pages Follow]

Each of the undersigned has caused the Amendment to be duly executed and delivered as of the date first above written.

GABA THERAPEUTICS, INC.

By: _____
Name:
Title:

ATAI LIFE SCIENCES AG

By: _____
Name:
Title:

GABA THERAPEUTICS, LLC

By: _____
Name:
Title:

Exhibit 10.26

AMENDMENT TO PREFERRED STOCK PURCHASE AGREEMENT

THIS AMENDMENT TO PREFERRED STOCK PURCHASE AGREEMENT (this "**Amendment**") is entered into as of 15 May 2021 (the "**Effective Date**"), by and among ATAI LIFE SCIENCES AG, a German corporation ("**ATAI**"), GABA THERAPEUTICS, LLC, a Delaware limited liability company, ("**Founder**" and referred to together with ATAI, as "**Shareholders**") and GABA THERAPEUTICS, INC., a Delaware corporation (the "**Company**" and referred to, collectively with ATAI and the Founder, as the "**Parties**").

W I T N E S S E T H:

A. The Parties have entered into that certain PREFERRED STOCK PURCHASE AGREEMENT dated as of August 29, 2019 (as amended, restated, supplemented or otherwise modified from time to time the "**SPA**").

B. The Parties previously amended certain of the definitive agreements between the Parties, including the SPA, pursuant to that certain OMNIBUS AMENDMENT dated as of October 30, 2020 (the "**Omnibus Amendment**"), under which ATAI agreed to support the Company's growth and development by, *inter alia*, not exercising its No Further Issuances Clause in order to, and to the extent reasonably necessary to, [***] defined in the Omnibus Amendment).

C. The Company has, as a condition precedent to the effectiveness of this Amendment, acquired exclusive ownership of certain Intellectual Property from the Founder ("**Founder IP**"), more precisely detailed in Exhibit J hereto, which the Company desires to develop through its proposed rapid-acting anti-depressant program (the "**GRX-RAAD Program**"), by (*inter alia*) performing the GRX-RAAD program activities (the "**GRX-RAAD Program Activities**") as further specified in Exhibit K hereto.

D. The Company has asked ATAI to fund such GRX-RAAD Program Activities in accordance with the general terms and conditions outlined herein, [***]and ATAI is willing to do so in the furtherance of its commitment under the Omnibus Amendment.

E. The Company desires to issue and sell certain additional shares of Series A Preferred Stock and Common Stock (as applicable) to the Shareholders, and the Shareholders desire to subscribe for and purchase such shares pursuant to the SPA and as further provided herein.

F. The Shareholders and the Company desire to amend the SPA in connection with such purchases and sales as set forth below.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

SECTION 1. Defined Terms. Capitalized terms used herein (including in the preamble and recitals above) but not otherwise defined herein shall have the respective meanings ascribed to such terms in the SPA.

SECTION 2. Additional Purchases and Sales of Milestone Shares. The Parties agree that, otherwise pursuant to the terms and subject to the conditions set forth in the SPA, the Company shall sell and ATAI shall purchase, additional Milestone Shares as provided below:

(a) [***] shares of Series A Preferred Stock $0.01 par value per share at the Purchase Price no later than five (5) business days following the Effective Date of this Amendment (or such later date when the Founder IP has been fully contributed by Founder to the Company);

(b) [***] shares of Series A Preferred Stock $0.01 par value per share at the Purchase Price no later than thirty (30) days following receipt by the Board that the events specified under "Milestone 3" in the amended Exhibit I attached to this Amendment have occurred ("**Milestone 3**"); and

(c) Up to [***] shares of Series A Preferred Stock $0.01 par value per share at the Purchase Price (with the final number of such shares to be determined by the Board) no later than thirty (30) days following receipt of the certification by the Board that the events specified under "Milestone 4" in the amended Exhibit I attached to this Amendment have occurred ("**Milestone 4**").

Milestone 3 and Milestone 4 shall be treated as "Milestones" for all purposes under the SPA.

SECTION 3. Issuance of Additional Shares of Common Stock to Founder.

(a) In consideration for the exclusive contribution of the Founder IP by the Founder to the Company as contemplated herein, the Company agrees to issue [***] shares of Common Stock to the Founder upon the achievement (to the reasonable satisfaction of the Board) of [***].

(b) Regardless of inventorship, as between the Parties, unless otherwise agreed by the Board in its sole discretion due to the termination of the GRX-RAAD Program Activities, the Company shall own all right, title, and interest in and to all (i) Founder IP and any and all developments thereof or based thereon, and (ii) Intellectual Property made, invented, developed, created, conceived, or reduced to practice as a result of work conducted pursuant to the GRX-RAAD Program Activities, including all rights in any patents or patent applications, copyrights, trade secrets, and other Intellectual Property rights relating thereto (the "**Developed Intellectual Property**"). The Founder agrees to, and to cause its respective Affiliates to, from time to time, at the request of the Company, without any additional consideration due to the Founder, furnish to the Company such further information or assurances; execute and deliver such additional documents, instruments, and conveyances; and take such other actions and do such other things, as may be reasonably necessary to vest such Developed Intellectual Property in the Company in accordance with this Section 3(b).

(c) In the event that the Board determines to no longer pursue the GRX-RAAD Program and to not undertake the GRX-RAAD Program Activities as provided for herein, the Company will use commercially reasonable efforts to ensure that the Founder IP (exclusive of any Developed Intellectual Property) reverts to the Founder.

SECTION 4. Use of Proceeds. The Parties agree that, notwithstanding anything set forth in Section 1.4 of the SPA to the contrary, the proceeds from the sale of the additional Milestone Shares covered by this Amendment shall be used to perform the GRX-RAAD Program Activities as further specified in the budget set forth on Exhibit L hereto.

SECTION 5. Counterparts. This Amendment may be executed in any number of counterparts and by the different parties hereto on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Amendment. Receipt by facsimile or other electronic transmission (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.hellosign.com) of any executed signature page to this Amendment shall constitute effective delivery of such signature page.

SECTION 6. SPA. Other than as specifically set forth herein, the SPA shall remain in full force and effect.

SECTION 7. Miscellaneous. Sections 6.2, 6.3, 6.5 through 6.13 and 6.15 of the SPA (or any successor provisions thereto) shall apply to this Amendment *mutatis mutandis*.

[Signature Pages Follow]

Each of the undersigned has caused the Amendment to be duly executed and delivered as of the date first above written.

GABA THERAPEUTICS, INC.

By: _____
Name: Ian Massey
Title: CEO

ATAI LIFE SCIENCES AG

By: _____
Name: Florian Brand
Title: CEO

GABA THERAPEUTICS, INC.

By: _____
Name: Richard Farrell
Title: CEO

Exhibit 21.1

Subsidiaries of the Registrant

Name	State or Other Jurisdiction of Incorporation or Organization
DemeRx IB, Inc.	Delaware
Kures Inc.	Delaware
Recognify Life Sciences, Inc.	Delaware
Neuronasal, Inc.	Delaware
Perception Neuroscience Holdings, Inc.	Delaware
Viridia Life Sciences, Inc.	Delaware
EmpathBio, Inc.	Delaware
Revixia Life Sciences, Inc.	Delaware
IntroSpect Digital Therapeutics, Inc.	Delaware
InnarisBio, Inc.	Delaware
EntheogeniX Biosciences, Inc.	Delaware
Psyber, Inc.	Delaware
PsyProtix, Inc.	Delaware
Atai Life Sciences US, Inc.	Delaware
Atai Life Sciences AG	Germany
Atai Life Sciences UK Ltd	England and Wales