

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

**Form S-8  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**ALTIMMUNE, INC.**  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

19 Firstfield Road  
Gaithersburg, Maryland 20878  
(240) 654-1450  
(Address of Principal Executive Offices)

20-2726770  
(I.R.S. Employer  
Identification Number)

ALTIMMUNE, INC. 2001 EMPLOYEE STOCK OPTION PLAN  
ALTIMMUNE, INC. 2001 NON-EMPLOYEE STOCK OPTION PLAN  
ALTIMMUNE, INC. 2017 OMNIBUS INCENTIVE PLAN  
(Full title of the plans)

William Enright  
President and Chief Executive Officer  
Altimune, Inc.  
19 Firstfield Road  
Gaithersburg, Maryland 20878  
(240) 654-1450  
(Name and address of agent for service)

Copies to:  
Ori Solomon, Esq.  
Proskauer LLP  
One International Place  
Boston, MA 02110-2600  
(617) 526-9600

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

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.

Non-Accelerated Filer  (Do not check if a smaller reporting company) Smaller Reporting Company

Emerging Growth Company

**CALCULATION OF REGISTRATION FEE**

| Title of Securities to be Registered                        | Amount to be Registered (1) | Proposed Maximum Offering Price per Share | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|---|-----------------------------|---|---|----------------------------|
| Common Stock, \$0.01 par value per share                    |                             |   |   |                            |
| Altimune, Inc. 2001 Employee Stock Option Plan (issued)     | 1,169,194(2)                | \$3.69(3)                                 | \$ 4,314,325.86                           | \$500.03                   |
| Altimune, Inc. 2001 Non-Employee Stock Option Plan (issued) | 36,113(2)                   | \$0.21(4)                                 | \$7,583.73                                | \$0.88                     |
| Altimune, Inc. 2017 Omnibus Incentive Plan                  | 1,500,000(5)                | \$6.5276(6)                               | \$9,791,400.00                            | \$1,134.82                 |

- (1) Pursuant to Rule 416(a) promulgated under the Securities Act of 1933, as amended, (the "Securities Act") this Registration Statement shall also cover any additional shares of Registrant's common stock (the "Common Stock") that become issuable under the plans set forth herein by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected that results in an increase to the number of outstanding shares of Registrant's Common Stock, as applicable.
  - (2) Represents shares of Common Stock subject to outstanding stock options that are outstanding as of the date this Registration Statement is being filed.
  - (3) Estimated in accordance with Rule 457(h) solely for the purpose of calculating the registration fee on the basis of the weighted-average exercise price of outstanding stock awards granted pursuant to the Altimune, Inc. 2001 Employee Stock Option Plan.
  - (4) Estimated in accordance with Rule 457(h) solely for the purpose of calculating the registration fee on the basis of the weighted-average exercise price of outstanding stock awards granted pursuant to the Altimune, Inc. 2001 Non-Employee Stock Option Plan.
  - (5) Represents shares of Common Stock available for grant or issuance subject to outstanding stock options as of the date this Registration Statement is filed.
  - (6) Estimated in accordance with Rules 457(c) and (h) solely for the purpose of calculating the registration fee on the basis of \$6.53 per share, the average of the high and low prices of the Common Stock as reported on Nasdaq on May 5, 2017, a date that is within five business days prior to the date on which this Registration Statement is being filed.
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## EXPLANATORY NOTE

On May 4, 2017, Altimmune, Inc., formerly known as PharmAthene, Inc. (the “Registrant,” “we,” “us” or “our”), completed its business combination with what was then known as Altimmune, Inc. (“Private Altimmune”) in accordance with the terms of the Agreement and Plan of Merger and Reorganization, dated as of January 18, 2017 (as amended on March 29, 2017 and as further amended from time to time, the “Merger Agreement”), by and among the Registrant, Mustang Merger Sub Corp I Inc., a Delaware corporation and a direct wholly owned subsidiary of PharmAthene (“Merger Sub Corp”), Mustang Merger Sub II LLC, a Delaware limited liability company and a direct wholly owned subsidiary of PharmAthene (“Merger Sub LLC”), Altimmune, and Shareholder Representative Services LLC, a Colorado limited liability company, solely in its capacity as a representative of certain security holders of Private Altimmune, pursuant to which Merger Sub Corp merged with and into Private Altimmune, with Altimmune surviving such merger (“Merger 1”), and immediately thereafter, Altimmune merged with and into Merger Sub LLC, with Merger Sub LLC as the surviving entity in such merger (“Merger 2” and together with Merger 1, the “Mergers”). Pursuant to the Merger Agreement, each option to purchase shares of Private Altimmune common stock that was outstanding and unexercised immediately prior to the effective time of the Mergers under the Altimmune, Inc. 2001 Employee Stock Option Plan (the “2001 Employee Plan”) and under the Altimmune, Inc. 2001 Non-Employee Stock Option Plan (the “2001 Non-Employee Plan”), whether or not vested, was converted into and became an option to purchase shares of the Registrant’s Common Stock and the Registrant assumed the 2001 Employee Plan and the 2001 Non-Employee Plan.

The Registrant is also filing this Registration Statement on Form S-8 for the purpose of registering an additional 1,500,000 shares of Common Stock issuable to eligible persons under the Altimmune, Inc. 2017 Omnibus Incentive Plan.

### PART I INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information called for in Part I of Form S-8 is not being filed with or included in this Form S-8 (by incorporation by reference or otherwise) in accordance with the rules and regulations of the Commission.

### PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

#### ITEM 3. INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The following documents filed by the Registrant with the Securities and Exchange Commission (the “SEC”) are incorporated by reference into this Registration Statement:

- (a) The Registrant’s Annual Report on Form 10-K (File No. 001-32597) for the fiscal year ended December 31, 2016, filed with the SEC on March 14, 2017.
- (b) The Registrant’s Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2017 filed with the SEC on May 2, 2017.
- (c) The Registrant’s Current Reports on Form 8-K filed with the SEC on January 19, 2017, February 1, 2017 (except with respect to Item 7.01 and Exhibit 99.1), March 14, 2017 (except with respect to Item 2.02 and Exhibit 99.1), March 29, 2017, April 27, 2017 and May 8, 2017.
- (d) All other reports filed by the Registrant pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) since the end of the fiscal year ended December 31, 2016.
- (e) The description of the Registrant’s Common Stock contained in the Registrant’s Registration Statement on Form 8-A (File No. 001-32587) filed with the SEC on May 4, 2017, including any other amendments or reports filed for the purposes of updating this description.
- (f) All other reports and documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (other than Current Reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits furnished on such form that relate to such items) on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part of this Registration Statement from the date of the filing of such reports and documents. Any statement contained in a document incorporated or

deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document that also is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

**ITEM 4. DESCRIPTION OF SECURITIES**

Not applicable.

**ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL**

Not applicable.

**ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS**

Section 145 of the Delaware General Corporation Law authorizes a court to award, or a corporation's board of directors to grant, indemnity to directors and officers in terms sufficiently broad to permit such indemnification under certain circumstances for liabilities, including reimbursement for expenses incurred, arising under the Securities Act.

The Registrant's amended and restated certificate of incorporation and amended and restated bylaws provide that the Registrant will indemnify its directors and officers, and may indemnify its employees and other agents, to the fullest extent permitted by the Delaware General Corporation Law. However, Delaware law prohibits the Registrant's certificate of incorporation from limiting the liability of the Registrant's directors for the following:

- any breach of the director's duty of loyalty to us or to our stockholders;
- acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- unlawful payment of dividends or unlawful stock repurchases or redemptions; and
- any transaction from which the director derived an improper personal benefit.

The Registrant has entered into agreements to indemnify each of its directors and officers. These agreements provide for the indemnification of such persons for all reasonable expenses and liabilities incurred in connection with any action or proceeding brought against them by reason of the fact that they are or were serving in such capacity.

The Registrant may maintain insurance policies that indemnify its directors and officers against various liabilities arising under the Securities Act and the Exchange Act that might be incurred by any director or officer in his capacity as such. The Registrant has obtained director and officer liability insurance to cover liabilities directors and officers may incur in connection with their services to the Registrant.

**ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.**

Not applicable.

**ITEM 8. EXHIBITS**

| <u>Exhibit No.</u> | <u>Exhibit Description</u>  | <u>Schedule / Form</u> | <u>File Number</u> | <u>Exhibit</u> | <u>Filing Date</u> |
|--------------------|---|------------------------|--------------------|----------------|--------------------|
| 4.1                | Amended and Restated Certificate of Incorporation of the Registrant   | 8-K                    | 001-32587          | 3.1            | November 4, 2009   |
| 4.2                | Certificate of Amendment (Reverse Stock Split) to the Restated Certificate of Incorporation of the Company, dated May 4, 2017 | 8-K                    | 001-32587          | 3.1            | May 8, 2017        |
| 4.3                | Certificate of Amendment (Name Change) to the Restated Certificate of Incorporation of the Company, dated May 4, 2017         | 8-K                    | 001-32587          | 3.2            | May 8, 2017        |
| 4.4                | Bylaws of the Registrant, amended and restated as of May 4, 2017  | 8-K                    | 001-32587          | 3.3            | May 8, 2017        |
| 5.1*               | Opinion of Proskauer Rose LLP   |                        |                    |                |                    |
| 23.1*              | Consent of Proskauer Rose LLP (included in Exhibit 5.1)   |                        |                    |                |                    |
| 23.2*              | Consent of Ernst & Young LLP, independent registered public accounting firm   |                        |                    |                |                    |
| 24.1*              | Power of Attorney (included on the signature page of this Form S-8)   |                        |                    |                |                    |
| 99.1*              | Altimune, Inc. 2001 Employee Stock Option Plan  |                        |                    |                |                    |
| 99.2*              | Altimune, Inc. 2001 Non-Employee Stock Option Plan  |                        |                    |                |                    |
| 99.3               | Altimune, Inc. 2017 Omnibus Incentive Plan†   | 8-K                    | 001-32587          | 10.1           | May 8, 2017        |
| 99.4               | Form of Incentive Stock Option Agreement under the Altimune, Inc. 2017 Omnibus Incentive Plan †                               | 8-K                    | 001-32587          | 10.2           | May 8, 2017        |
| 99.5               | Form of Non-Qualified Stock Option Agreement under the Altimune, Inc. 2017 Omnibus Incentive Plan †                           | 8-K                    | 001-32587          | 10.3           | May 8, 2017        |

\* Provided herewith

† Note that the name of this plan has been amended to reflect the current name of the Registrant.

## ITEM 9. UNDERTAKINGS

1. The undersigned registrant hereby undertakes:

(a) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*Provided, however,* that paragraphs (a)(i) and (a)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

(b) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

2. The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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

**SIGNATURES**

Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Gaithersburg, State of Maryland, on this 10th day of May, 2017.

**ALTIMMUNE, INC.**

/s/ William Enright

William Enright

*President and Chief Executive Officer*

## POWER OF ATTORNEY

**Know All Persons By These Presents**, that each person whose signature appears below constitutes and appoints William Enright and Elizabeth Czerepak, as his or her true and lawful attorney-in-fact and agent, each with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to sign any registration statement for the same offering covered by this Registration Statement that is to be effective upon filing pursuant to Rule 462(b) promulgated under the Securities Act, and all post-effective amendments thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the SEC, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

| <u>Signature</u>   | <u>Title</u>  | <u>Date</u>  |
|--|---|--------------|
| <u>/s/ William Enright</u><br>William Enright              | President, Chief Executive Officer and Director<br><i>(Principal Executive Officer)</i>       | May 10, 2017 |
| <u>/s/ Elizabeth A. Czerepak</u><br>Elizabeth A. Czerepak  | Chief Financial Officer<br><i>(Principal Financial Officer; Principal Accounting Officer)</i> | May 10, 2017 |
| <u>/s/ David J. Drutz</u><br>David J. Drutz, M.D.          | Chairman of the Board   | May 10, 2017 |
| <u>/s/ John M. Gill</u><br>John M. Gill                    | Director  | May 10, 2017 |
| <u>/s/ Philip L. Hodges</u><br>Philip L. Hodges            | Director  | May 10, 2017 |
| <u>/s/ Mitchel B. Sayare</u><br>Mitchel B. Sayare, Ph.D.   | Director  | May 10, 2017 |
| <u>/s/ Klaus O. Schafer</u><br>Klaus O. Schafer, M.D., MPH | Director  | May 10, 2017 |
| <u>/s/ Derace L. Schaffer</u><br>Derace L. Schaffer, M.D.  | Director  | May 10, 2017 |



**EXHIBIT INDEX**

| <u>Exhibit No.</u> | <u>Exhibit Description</u>  | <u>Schedule / Form</u> | <u>File Number</u> | <u>Exhibit</u> | <u>Filing Date</u> |
|--------------------|---|------------------------|--------------------|----------------|--------------------|
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| 4.4                | Bylaws of the Registrant, amended and restated as of May 4, 2017  | 8-K                    | 001-32587          | 3.3            | May 8, 2017        |
| 5.1*               | Opinion of Proskauer Rose LLP   |                        |                    |                |                    |
| 23.1*              | Consent of Proskauer Rose LLP (included in Exhibit 5.1)   |                        |                    |                |                    |
| 23.2*              | Consent of Ernst & Young LLP, independent registered public accounting firm   |                        |                    |                |                    |
| 24.1*              | Power of Attorney (included on the signature page of this Form S-8)   |                        |                    |                |                    |
| 99.1*              | Altimmune, Inc. 2001 Employee Stock Option Plan   |                        |                    |                |                    |
| 99.2*              | Altimmune, Inc. 2001 Non-Employee Stock Option Plan   |                        |                    |                |                    |
| 99.3               | Altimmune, Inc. 2017 Omnibus Incentive Plan†  | 8-K                    | 001-32587          | 10.1           | May 8, 2017        |
| 99.4               | Form of Incentive Stock Option Agreement under the Altimmune, Inc. 2017 Omnibus Incentive Plan †                              | 8-K                    | 001-32587          | 10.2           | May 8, 2017        |
| 99.5               | Form of Non-Qualified Stock Option Agreement under the Altimmune, Inc. 2017 Omnibus Incentive Plan †                          | 8-K                    | 001-32587          | 10.3           | May 8, 2017        |

\* Provided herewith

† Note that the name of this plan has been amended to reflect the current name of the Registrant.



ProskauerRose LLP One International Place Boston, MA 02110-2600

May 10, 2017

Altimune, Inc.  
19 Firstfield Rd., Suite 200  
Gaithersburg, Maryland 20878

Ladies and Gentlemen:

We are acting as counsel to Altimune, Inc., a Delaware corporation f/k/a PharmAthene, Inc. (the "Company"), in connection with the preparation and filing with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act"), of a registration statement on Form S-8 (the "Registration Statement") and the rules and regulations thereunder, relating to the registration of 2,705,307 shares (the "Shares") of the Company's common stock, \$0.0001 par value per share (the "Common Stock"), that may be issued by the Company pursuant to the Altimune, Inc. 2017 Omnibus Incentive Plan, filed as Exhibit 99.3 to the Registration Statement (the "2017 Plan"), the Altimune, Inc. 2001 Employee Stock Option Plan, as amended, filed as Exhibit 99.1 to the Registration Statement (the "2001 Employee Plan"), and the Altimune, Inc. 2001 Non-Employee Stock Option Plan, as amended, filed as Exhibit 99.2 to the Registration Statement (the "2001 Non-Employee Plan," and together with the 2017 Plan and the 2001 Employee Plan, the "Plans"). The Shares are to be issued by the Company upon grant, vesting or exercise of certain stock-based awards (the "Awards") granted and to be granted pursuant to the Plans.

As such counsel, we have participated in the preparation of the Registration Statement and have examined originals or copies of such documents, corporate records and other instruments as we have deemed relevant, including, without limitation: (i) the amended and restated certificate of incorporation of the Company, filed as Exhibit 4.1 to the Registration Statement (the "Charter"); (ii) the amendments to the Charter filed as Exhibit 4.2 and Exhibit 4.3 to the Registration Statement, (iii) the amended and restated bylaws of the Company, filed as Exhibit 4.4 to the Registration Statement; (iv) certain resolutions of the Board of Directors of the Company relating to the authorization and issuance of the Awards and the Shares; (v) certain resolutions of the Company's stockholders relating to the adoption of the Plans; (vi) the Plans; and (vii) the Registration Statement, together with the other exhibits filed as a part thereof.

We have made such examination of law as we have deemed necessary to express the opinion contained herein. As to matters of fact relevant to this opinion, we have relied upon, and assumed without independent verification, the accuracy of certificates of public officials and officers of the Company. We have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of documents submitted to us as originals, the conformity to the original documents of all documents submitted to us as certified, facsimile or photostatic copies, and the authenticity of the originals of such copies. We have also assumed that certificates representing the Shares will have been properly signed by authorized officers of the Company or their agents.

Boca Raton | Boston | Chicago | Hong Kong | London | Los Angeles | New Orleans | New York | Newark | Paris | São Paulo | Washington, D.C.

Based upon the foregoing, and subject to the limitations, qualifications, exceptions and assumptions expressed herein, we are of the opinion, assuming no change in the applicable law or pertinent facts, that the Shares when and to the extent issued in accordance with the terms of the Awards and the Plans, including payment of the applicable exercise price therefor, will be validly issued, fully paid and non-assessable.

This opinion is limited in all respects to the General Corporation Law of the State of Delaware, and we express no opinion as to the laws, statutes, rules or regulations of any other jurisdiction. The reference and limitation to the "General Corporation Law of the State of Delaware" includes all applicable Delaware statutory provisions of law and reported judicial decisions interpreting these laws.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Registration Statement. In giving the foregoing consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

Very truly yours,

/s/ Proskauer Rose LLP

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in the Registration Statement Form S-8 pertaining to the (i) Altimmune, Inc. 2001 Employee Stock Option Plan, (ii) Altimmune, Inc. 2001 Non-Employee Stock Option Plan, and (iii) Altimmune, Inc., 2017 Omnibus Incentive Plan, of Altimmune, Inc. of our reports dated March 14, 2017, with respect to the consolidated financial statements of PharmAthene, Inc. and the effectiveness of internal control over financial reporting of PharmAthene, Inc. included in its Annual Report (Form 10-K) for the year ended December 31, 2016, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Baltimore, MD

May 3, 2017

**Altimune, Inc.**  
**(Formerly, VAXIN, INC.)**  
**2001 EMPLOYEE STOCK OPTION PLAN**

**Adopted November 28, 2001**  
**Approved by Shareholders December 31, 2001**

**1. PURPOSES**

The purposes of the Altimune, Inc. 2001 Employee Stock Option Plan are (i) to align the interests of the Company's shareholders and recipients of Options under the Plan by increasing the proprietary interest of such recipients in the Company's growth and success and (ii) to advance the interests of the Company by attracting well-qualified persons by providing such persons with performance-related incentives. All references to "share", "shares", "option" or "options" under this Plan have been adjusted to reflect the Company's merger with PharmAthene, Inc. effected on May 4, 2017.

**2. DEFINITIONS**

For purposes of the Plan, the following terms shall have the following meanings:

"Affiliate" shall mean any parent corporation or subsidiary corporation of the Company, whether now or hereafter existing, as those terms are defined in Sections 424(e) and (1), respectively, of the Code.

"Board" shall mean the Board of Directors of the Company or a Committee appointed by the Board of Directors of the Company.

"Change in Control" shall mean (a) the acquisition of power to direct, or cause the direction of, the management and policies of the Company by a person (not previously possessing such power), acting alone or in conjunction with others, whether through the ownership of Common Stock, by contract or otherwise, (b) the acquisition of Common Stock which results in, directly or indirectly, the power to vote more than 50% of the outstanding Common Stock by any person or by two or more persons acting together, or (c) the election of the Company's Board of Directors, without the recommendation of the incumbent Board of Directors of the Company, of directors constituting a majority of the number of directors of the Company then in office. For purposes of this definition, (i) the term "person" means a natural person, corporation, partnership, joint venture, trust, government or instrumentality of a government, and (ii) customary agreements with or between underwriters and selling group members with respect to a bona fide public offering of Common Stock shall be disregarded.

"Code" shall mean the Internal Revenue Code of 1986, as amended, or any successor legislation.

"Committee" shall mean the members of the Board, or a committee appointed by the Board to administer this Plan (including an "Outside Committee" as defined in Section 6.3), such committee to at all times consist of two or more members of the Board. The Board may from time to time remove members from, or add members to, the Committee. Vacancies on the Committee shall be filled by the Board. The Committee shall select one of its members as Chairman and shall hold meetings at such times and places as it may determine.

“Common Stock” shall mean the common stock, \$0.0001 par value per share, of the Company.

“Company” shall mean Vaxin, Inc., a Delaware corporation, and its Affiliates.

“Continuous Service” shall mean the absence of any disruption or termination of a Participant’s service with the Company as an Eligible Person. Service shall not be considered interrupted in the case of (i) a change in the Participant’s capacity as an Eligible Person or entity in which the Participant renders service, so long as such entity is an Affiliate or (ii) transfers between payroll locations of the Company or successor. The Board of directors in its discretion shall determine the effect of sick leave, military leave, or other leave of absence approved by the Company.

“Disability” shall mean permanent and total disability as generally determined by the Company.

“Eligible Person” shall mean any Person eligible to participate in the Plan pursuant to Section 3 of the Plan.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Fair Market Value” shall mean the fair market value of a share of Common Stock as determined in good faith by the Board, using such methodology as it in its sole discretion may deem appropriate, or, if at any time the Common Stock is publicly traded on any exchange or any over-the-counter market, the closing sales price for such stock (or closing bid if no sales were reported) as quoted on such exchange or market on the last market trading day prior to the date of determination as reported by the Wall Street Journal, or such other source as the Board deems reliable.

“ISO” shall mean an Option granted under this Plan to purchase Common Stock which is intended by the Company to satisfy the requirements of Code Section 422.

“Non-ISO” shall mean an Option granted under this Plan to purchase Common Stock which is not intended by the Company to satisfy the requirements of Code Section 422.

“Option” shall mean an ISO or a Non-ISO granted pursuant to Section 7 hereof.

“Participant” shall mean any Person to whom an Option has been granted pursuant to this plan, or if applicable, such other person who holds an outstanding option.

“Plan” shall mean this Vaxin, Inc. 2001 Employee Stock Option Plan, as amended from time to time.

“Retirement” shall mean attaining age 65 unless otherwise provided by a written agreement between the Participant and the Company or termination of employment under the terms of the Company’s then current retirement policy.

“Rule 16b-3” shall mean Rule 16b-3 promulgated under Section 16(b) of the Exchange Act or any successor to such rule.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Ten Percent Shareholder” shall mean any Person who, immediately prior to the time an Option is granted to such Person pursuant to the Plan, directly or indirectly owns Common Stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company. For purposes of this Plan, an individual shall be treated as owning any Common Stock which is owned by such individual’s brothers and sisters (whether by the whole or half blood), spouse, ancestors and lineal descendants, and stock owned directly or indirectly by or for a corporation, partnership, trust or estate shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. Stock available for purchase pursuant to an Option, however, shall not be treated as owned for purposes of this paragraph.

### **3. ELIGIBILITY AND PARTICIPATION**

Employees of the Company who, in the judgment of the Board, are responsible for or contribute to the management, growth and/or profitability of the business of the Company are eligible to be granted Options under the Plan. Participants shall be selected from time to time by the Board, in its sole discretion, from among those eligible.

### **4. SHARES AVAILABLE**

4.1 Number; Limitations. The total number of shares of Common Stock subject to issuance under the Plan may not exceed 1,469,028 subject to adjustment as provided by Section 4.3. The shares to be delivered under the Plan may consist, in whole or in part, of authorized but unissued shares of Common Stock or treasury Common Stock not reserved for any other purpose. The Company shall at all times reserve a sufficient number of shares to meet the requirements of the Plan. No fractional shares shall be issued under the Plan, nor shall any cash in lieu of fractional shares be paid.

4.2 Unused Stock. In the event any shares of Common Stock are subject to an Option which, for any reason, expires, terminates or, with the consent of the Participant, is canceled as to such shares, such Common Stock may again be made available for issuance under the Plan.

4.3 Adjustment Provisions. In the event of any stock split, stock dividend, recapitalization, reorganization, merger, consolidation, combination, exchange of shares, liquidation, spin-off or other similar change in capitalization, or any distribution to holders of Common Stock other than a cash dividend, the number and class of shares available under the Plan, the number and class of shares subject to each outstanding Option and the purchase price per share, and the number and class of shares subject to each other outstanding Option shall be appropriately adjusted by the Committee, such adjustments to be made without a change in the aggregate purchase price or reference price set forth in the agreements or other documents describing such Options.

## 5. EFFECTIVE DATE

The effective date of this Plan shall be the date it is adopted by the Board, if applicable, provided that the shareholders of the Company shall approve this Plan in accordance with Rule 16b-3, if applicable, and, to the extent this Plan provides for the issuance of ISOs, the shareholders of the Company shall approve those portions of this Plan related to the granting of ISOs within twelve (12) months after the date of adoption. If any Options are granted under the Plan before the date of such shareholder approval, such Options automatically shall be granted subject to such approval.

## 6. ADMINISTRATION

6.1 Administration and Interpretation. This Plan shall be administered by the Board. The Board acting in its absolute discretion shall exercise such powers and take such action as expressly called for under this Plan. Further, the Board shall have the power to interpret this Plan and the respective agreements executed thereunder, to prescribe rules and regulations relating to the Plan as it may deem advisable to carry out the Plan, to take such action in the administration and operation of this Plan as the Board deems equitable under the circumstances, and to make all other determinations necessary or advisable for administering the Plan. The determination of the Board on matters within its authority under the Plan shall be conclusive, and such action shall be binding on the Company, on each affected Participant, and on each other person directly or indirectly affected by such action.

Each member of the Board shall be fully justified in relying or acting in good faith upon any report made by the independent public accountants of the Company and upon any other information furnished in connection with the Plan by any person or persons as the Board may deem advisable. In no event shall any person who is or has been a member of the Board be liable for any determination made or other action taken by him or any failure by him to act in reliance upon any such report or information, if in good faith. The members of the Board may be entitled to indemnification and reimbursement by the Company in respect of any claim, loss, damage or expense (including attorney's fees) arising therefrom to the full extent permitted by law and under any directors' and officers' liability insurance that may be in effect from time to time, in all events as a majority of the Board then in office may determine from time to time, as evidenced by a written resolution thereof. In addition, no member of the Board and no employee of the Company shall be liable for any act or failure to act, by any other member or other employee, or by any agent, to whom duties in connection with the administration of this Plan have been delegated, or for any act or failure to act by such member or employee, except in circumstances involving such member's or employee's bad faith, gross negligence, intentional fraud or violation of a statute.

6.2 Options. The Board shall have full authority, consistent with the terms of the Plan, to grant Options to Eligible Persons. In particular, and without limitation, the Board shall have the authority:

(a) to determine the Participants to whom Options may from time to time be granted hereunder and the number of shares of Common Stock to be covered by each Option granted hereunder;



(b) to determine the terms and conditions, not inconsistent with the terms of this Plan, of any Option granted hereunder (which need not be identical) including, but not limited to, any restriction or limitation on exercise or transfer, any vesting schedule or acceleration thereof, or any forfeiture provisions or waiver thereof, regarding any Option and the shares of Common Stock relating thereto, based on such factors as the Board shall determine in its sole discretion;

(c) to modify or waive any restrictions or limitations contained in, and grant extensions to or accelerate the vesting of, any outstanding Options as long as such modifications, waivers, extensions or accelerations are consistent with the terms of this Plan.

6.3 Compliance With Code §162(m). In the event the Company, a “parent” or a “subsidiary” becomes a “publicly-held company” as such terms are defined for purposes of Section 162(m)(2) of the Code, the Board may establish a committee of outside directors (“Outside Committee”) meeting the requirements of Code §162(m) to (i) approve the grant of Options which might reasonably be anticipated to result in the payment of employee remuneration that would otherwise exceed the limit on employee remuneration deductible for income tax purposes by the Company pursuant to Code §162(m) and (ii) administer the Plan. In such event, the powers reserved to the Board in the Plan shall be exercised by such committee. In addition, Options granted under the Plan shall be granted upon satisfaction of the conditions to such grants provided pursuant to Code §162(m) and any applicable regulations promulgated thereunder.

6.4 Delegation to Committee. The Board may delegate administration of the Plan to the Committee. If administration is delegated to a Committee, the Committee shall have, in connection with the administration of the Plan, the powers theretofore possessed by the Board, including the power to delegate to a subcommittee any of the administrative powers the Committee is authorized to exercise (and references in this Plan to the Board shall thereafter be to the Committee or subcommittee), subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. The Board may abolish the Committee at any time and revert in the Board the administration of the Plan.

## 7. OPTIONS

7.1(a) Grants. Options shall be either ISOs or Non-ISOs and a separate certificate or certificates will be issued for shares purchased on exercise of each type of Option. The Board shall have the authority to grant to any Eligible Person one or more ISOs or Non-ISOs. With respect to Options granted under this Plan, if the Fair Market Value (determined at the date of grant) of Common Stock with respect to which ISOs may become exercisable for the first time in any calendar year by any Participant is greater than \$100,000, then any such Options in excess of such amount, if any, shall constitute Non-ISOs and shall not be ISOs.

7.2 Terms of Options. Options granted under this Plan shall be subject to the following terms and conditions and shall be in such form and contain such additional terms and conditions, not inconsistent with the terms of this Plan, as the Board shall deem desirable:

(a) Exercise Price. The exercise price per share of Common Stock purchasable under an Option shall be determined by the Committee at the time of grant, provided that no ISO shall have an exercise price less than 100% of the Fair Market Value of the Common Stock on the date such Option is granted, and, provided further, that no ISO which is granted to a Ten Percent Shareholder shall have an exercise price that is less than 110% of the Fair Market Value of the Common Stock on the date such ISO is granted.

(b) Option Term. The term of each Option shall be fixed by the Board, but no Option shall be exercisable more than ten (10) years after the date the Option is granted, and no ISO which is granted to a Ten Percent Shareholder shall be exercisable more than five (5) years after the date the Option is granted.

(c) Vesting and Exercisability. Except as provided in Sections 6 and 10 hereof, all Options granted under this Plan shall vest as provided in the Option Agreement pursuant to Section 7.3. The Option may be subject to such other terms and conditions on the time or times when it may be exercised (which may be based on performance or other criteria) as the Board may deem appropriate.

(d) Exercisability Upon Termination. In the event of the termination of a Participant's Continuous Service with the Company, the Participant may exercise his or her Option (to the extent exercisable on the date of termination) but only within the period of time ending upon the earlier of (i) the expiration date of the Option, (ii) the date three (3) months following such date of termination, or (iii) such longer or shorter period specified in the Option Agreement. Notwithstanding clause (iii) above, all outstanding ISOs automatically will be converted into Non-ISOs if the Option holder does not exercise the ISO (i) within three (3) months of the date of termination caused by reasons other than death or Disability, or (ii) within twelve (12) months of the date of termination caused by Disability. If the Option is not exercised within the time specified herein, the Option shall terminate.

(e) Method of Exercise. An Option may be exercised (i) by giving written notice to the Company specifying the number of whole shares of Common Stock to be purchased with the purchase price therefor to be payable in full either (A) in cash, (B) in previously owned whole shares of Common Stock (for which the holder of the Option has good title free and clear of all liens and encumbrances) with their Fair Market Value determined as of the date of exercise, (C) with respect to Non-ISOs, by authorizing the Company to retain whole shares of Common Stock which would otherwise be issuable upon exercise of the Option with their Fair Market Value determined as of the date of exercise, or (D) a combination of (A), (B) and (C), in each case to the extent determined by the Board at the time of grant of the Option, and (ii) by executing such documents as the Company may reasonably request. No shares of Common Stock shall be issued until the full purchase price has been paid. The Corporation will, as soon as is reasonably possible, notify the Optionee of the amount of withholding tax, if any, that must be paid under federal, state and local law due to exercise of the Option. The Corporation shall have no obligation to deliver certificates for the shares purchased until Optionee pays to the Corporation the amount of withholding specified in the Corporation's notice in cash or in Common Stock. In the event of Non-ISOs, Optionee may direct the Corporation to withhold that number of shares of Common Stock (valued according to the procedures set forth in this section on the date of withholding) sufficient to satisfy such obligation.

7.3 Option Agreement. As determined by the Board on the date of grant, each Option shall be evidenced by a written option agreement and no such Option shall be valid until so evidenced (“Option Agreement”). Such agreement shall specify, among other things, the type of Option granted, the Option price, the duration of the Option, the number of shares of Common Stock to which the Option pertains, and the schedule on which such Options become exercisable.

## 8. REPURCHASE; RESTRICTIONS ON TRANSFER

8.1 Repurchase. The Option Agreement or written employment agreement with the Company (“Employment Agreement”) may provide for terms under which the Company shall have the right and option to repurchase all of the shares of Common Stock held by the Participant which were acquired pursuant to Options granted under this Plan. In addition, the Board may at any time offer to buy out an Option previously granted or shares acquired pursuant to an Option, based on such terms and conditions as the Board shall establish and communicate to the Participant at the time such offer is made.

### 8.2 Restrictions on Transfer.

(a) Any attempted transfer of an Option or Common Stock issued pursuant to the exercise of any Option in violation of the terms of this Plan or the Option Agreement shall be ineffective to vest any legal or beneficial interest in such Option or Common Stock in any transferee and shall be null and void. Without limiting the foregoing, any purported transfer by the Participant in violation hereof shall be ineffective as against the Company, and the Company shall have a continuing right and option (but not an obligation), until this Plan terminates, to purchase Common Stock purported to be transferred by or for the Participant for a price and on terms the same as those at which such Common Stock could have been purchased hereunder at the time of the transfer. Nevertheless, the Company may in any particular circumstance, by action of its Board of Directors, waive these restrictions on transfer.

(b) Notwithstanding the foregoing, the Participant may, in form acceptable to the Company, designate a third party who, in the event of death of the Participant, shall thereafter be entitled to exercise the Option. Options may only be exercised or settled during the Participant’s lifetime by the Participant or his or her guardian, conservator or other legal representative. Options shall not in any manner be subject to the debts, contracts, liabilities, engagements or torts of any person who shall be entitled to such benefit, nor shall they be subject to attachment or legal process for or against such person.

(c) If the Participant is an individual, the Participant may transfer, without complying with the provisions of this Section 8, such Participant’s Common Stock by way of gift to any member of the Participant’s family or to a trust for the benefit of any such family member or the Participant, provided the transferee agrees in writing to be bound by the terms and conditions of this Plan and the Option Agreement (including without limitation this Section 8), or by will or the laws of descent and distribution, in which event each such transferee shall be bound by all of the provisions of this Plan and the Option Agreement to the same extent as if such transferee were the Participant. As used in this Plan or the Option Agreement, the word “family” shall include any spouse, lineal ancestor or descendant, or brother or sister.

8.3 Notice of Proposed Sale. If at any time a Participant desires to sell or transfer any shares of Common Stock owned by the Participant, the Participant shall give written notice to the Company (the "Notice") setting forth the Participant's desire to sell or transfer such Common Stock (the "Offered Shares"), which Notice shall set forth the amount and type of such Common Stock, the price per share and any other material terms and conditions relating to the proposed sale or transfer, including the identity of the transferee, if known.

8.4 Company's Option to Purchase.

(a) The Company shall have a non-assignable option to purchase all or any part of the Offered Shares for the consideration per share and on the terms and conditions specified in the Notice. The Company must exercise such option, no later than twenty (20) days after such Notice is sent by U.S. mail to the Company's main office (the "Option Period"), by written notice to the Participant. If the Company elects to purchase all of such Offered Shares, the Company shall be obligated to purchase, and the Participant shall be obligated to sell or transfer to the Company such Offered Shares at the price and terms indicated in the Notice.

(b) In the event the Company does not exercise its option within the Option Period with respect to all of the Offered Shares, the Company shall cause its Secretary, by the last day of the Period, to give written notice of that fact to the Participant. However, the Company shall have the right to disapprove any transferee by written notice to the Participant during the Option Period of the reasons therefore, which disapproval shall not be unreasonably given.

(c) In the event the Company duly exercises its option to purchase all or part of the Offered Shares, the closing of such purchase shall take place at the offices of the Company on the date five days after the expiration of the Option Period.

(d) To the extent that the consideration proposed to be paid for the Offered Shares consists of property other than cash or a promissory note, the consideration required to be paid by the Company exercising its option may consist of cash equal to the value of such property, as determined in good faith by agreement of the Participant and the Company (by action of its Board of Directors).

(e) The right of first refusal established by this Section 8.4 shall not apply to and shall terminate upon an IPO of the Company's Common Stock.

(f) Failure to Fully Exercise Options. In the event that the Company does not fully exercise its option to purchase the Offered Shares within the Option Period and does not notify the Participant of its disapproval of the transferee, then the option of the Company to purchase the Offered Shares, whether exercised or not, shall terminate. In such event, the Participant may sell or transfer any or all of such Offered Shares during the ninety (90) days following the expiration of the Option Period, provided that: (a) such sale or transfer shall only be made pursuant to the terms of the Notice (or, at the Participant's option, at a price that is higher than the price set forth in the Notice but otherwise on the terms set forth therein); (b) the Participant shall not sell or transfer such Offered Shares to a competitor of the Company without the prior written consent of the Company, duly authorized by the Board of Directors; and

(c) prior to the sale or transfer of such Offered Shares, the transferee shall execute an agreement with the Company pursuant to which the transferee agrees to be subject to the right of first refusal set forth in this Section 8.4. If the Offered Shares are not sold or transferred pursuant to the provisions hereof within such time period, the Offered Shares shall remain subject to the terms of this Plan.

## 9. TERMINATION OR AMENDMENT

This Plan may be amended, suspended or terminated by the Board from time to time to the extent that the Board deems necessary or appropriate; provided, however, that no amendment shall be made without shareholder approval to the extent such approval is required by Section 422 of the Code, Rule 16b-3 or any securities exchange listing requirements. The Board may in its sole discretion submit any other amendment for shareholder approval. It is expressly contemplated that the Board may amend the Plan in any respect the Board deems necessary or advisable to provide Eligible Persons with the maximum benefits provided or to be provided under the provisions of the Code and the regulations promulgated thereunder relating to ISOs and/or to bring the Plan and/or ISOs granted under it into compliance therewith.

The Board also may suspend the granting of Options under this Plan at any time and may terminate this Plan at any time; provided, however, rights under any Option granted before any amendment, suspension or termination of the Plan shall not be impaired by such action unless (i) the Participant consents in writing to such action or (ii) such action is pursuant to a dissolution or liquidation of the Company or a transaction described in Sections 4.3 or 10 of this Plan.

The Board at any time, and from time to time, may amend, modify or cancel the terms of any one or more Options; provided, however, that the rights under any Option shall not be impaired by any such amendment modification or cancellation except as provided in clause (i) or (ii) above.

## 10. CHANGE IN CONTROL AND OTHER CORPORATE EVENTS

10.1 Sale, Merger or Consolidation. Unless the Option Agreement or Employment Agreement provide otherwise, in the event that the Company is a party to (i) a sale of all or substantially all of the assets of the Company other than to an Affiliate, (ii) a merger or consolidation in which the Company is not the surviving corporation, or (iii) a reverse merger in which the Company is the surviving corporation but the shares of Common Stock outstanding immediately preceding the merger are converted by virtue of the merger into other property, whether in the form of securities, cash or otherwise, outstanding Options shall be subject to the agreement of sale, merger or consolidation, which agreement may provide without the affected Participant's consent for:

- (a) The continuation of such outstanding Options by the Company (if the Company is the surviving corporation);
- (b) The assumption of the Plan and such outstanding Options by the surviving corporation or its parent;

(c) The substitution by the surviving corporation or its parent of options with substantially the same terms for such outstanding Options; or

(d) The cancellation of each outstanding Option after payment to the Participant of an amount in cash or cash equivalents equal to (i) the Fair Market Value of the Common Stock subject to such Option at the time of the sale, merger or consolidation minus (ii) the exercise price of the Common Stock subject to such Option, or

(e) The acceleration of vesting of Options and termination of such Options if not exercised at or prior to such event.

A transaction shall not be subject to this Section if the sole purpose is to change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

10.2 Change in Control. Unless the Option Agreement or Employment Agreement provide otherwise, if there is a Change in Control of the Company, the Board thereafter shall have the right to take such action with respect to any outstanding Options as the Board deems appropriate under the circumstances to protect the interest of the Company in maintaining the integrity of such Options under this Plan, including entering into an agreement providing for the terms permitted by Section 10.1 in the event of a sale or merger of the Company. The Board shall have the right to take different action under this Section 10.2 with respect to different Participants or different groups of Participants, as the Board deems appropriate under the circumstances. Except for the terms permitted by Section 10.1, in no event shall the Board take any action under this Section 10.2 which would impair the value of such Options, without the affected Participant's consent.

10.3 Dissolution or Liquidation. In the event of dissolution or liquidation of the Company, then all outstanding Options shall terminate immediately prior to such event.

(a) the tenth anniversary of the effective date of this Plan (as determined under Section 5 of this Plan), in which event this Plan thereafter shall continue in effect until all outstanding Options have been exercised in full and/or became fully vested or no longer are exercisable; or

(b) the date on which all of the Common Stock reserved under Section 4.1 of this Plan has (as a result of the exercise and/or vesting of Options granted under this Plan) been issued or no longer is available for use under this Plan, in which event this Plan also shall terminate on such date.

Except as provided herein, this Plan shall remain in effect until all Options granted under the Plan have been exercised or expired by reason of lapse of time.

## 11. GENERAL PROVISIONS

11.1 Unfunded Status of Plan. This Plan is intended to be unfunded. With respect to any payments as to which a Participant has a fixed and vested interest but which are not yet made to a Participant by the Company, nothing contained herein shall give any such Participant any rights that are greater than those of a general creditor of the Company.

11.2 No Right to Option or Continuous Service. Neither this Plan nor the grant of any Option hereunder shall give any Participant any right with respect to (i) an Option or any other rights except as evidenced by a written agreement related to an Option, or (ii) Continuous Service with the Company, nor shall this Plan or the grant of an Option hereunder be a limitation in any way on the right of the Company to terminate his or her employment or other relationship with the Company at any time.

11.3 Use of Proceeds. The proceeds received by the Company from the sale of Common Stock pursuant to the exercise of Options under the Plan shall be added to the Company's general funds and used for general corporate purposes.

11.4 Other Plans. In no event shall the value of, or income arising from, any Options under this Plan be treated as compensation for purposes of any pension, profit sharing, life insurance, disability or any other retirement or welfare benefit plan now maintained or hereafter adopted by the Company, unless such plan specifically provides to the contrary.

11.5 Section 16. It is intended that the Plan and any Options granted to a person subject to Section 16 of the Exchange Act meet all of the requirements of Rule 16b-3 to the extent applicable. If any provision of the Plan or any Option grant would disqualify the Plan or such Option, or would otherwise not comply with Rule 16b-3 to the extent applicable, such provision or Option shall be construed or deemed amended to conform to Rule 16b-3.

11.6 No Restriction on Right of Company to Effect Corporate Changes. Nothing in the Plan shall affect the right or power of the Company or its shareholders to make or authorize any adjustments, recapitalizations, reorganizations or other changes in the Company's capital structure or its business, or any merger or consolidation of the Company, or any issue of stock or of options, warrants or rights to purchase stock or of bonds, debentures, preferred or prior preference stocks whose rights are superior to or affect the Common Stock or the rights thereof or which are convertible into or exchangeable for Common Stock, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

11.7 Shareholder Rights. A Participant shall have no rights as a shareholder with respect to any shares issued or issuable with respect to an Option until a certificate or certificates evidencing such shares shall have been issued to or for the benefit of such Participant, and no adjustment shall be made for dividends or distributions or other rights in respect of any share for which the record date is prior to the date upon which the Participant shall become the holder of record thereof.

11.8 Governing Law. This Plan and actions taken in connection herewith shall be governed and construed in accordance with the laws of the State of Delaware (without regard to applicable Delaware principles of conflict of laws).

11.9 Construction. Wherever any words are used in this Plan in the masculine gender, they shall be construed as though they were also used in the feminine gender in all cases where

they would so apply, and wherever any words are used herein in the singular form, they shall be construed as though they were also used in the plural form in all cases where they would so apply.

11.10 Securities Laws. (a) The Company shall not be obligated to issue any Common Stock pursuant to any Option granted under the Plan at any time when the offering of the shares covered by such Option has not been registered (or exempted) under the Securities Act and such other state and federal laws, rules or regulations as the Company or the Board deems applicable and, in the opinion of legal counsel for the Company, there is no exemption from the registration requirements of such laws, rules or regulations available for the issuance and sale of such shares. If after reasonable efforts, the Company is unable to obtain from any regulatory commission or agency having jurisdiction over the Plan such authority as may be required to issue Common Stock pursuant to any Option, the Company shall be relieved from any liability for failure to issue such stock unless and until such authority is obtained. Nothing shall require the Company to register under the Securities Act the Plan, any Option or any Common Stock issued or issuable pursuant to any Option. The Company may require a Participant, as a condition of exercising or acquiring stock under any Option, (i) to give written assurances satisfactory to the Company as to the Participant's knowledge and experience in financial and business matters and/or to employ a purchaser representative reasonably satisfactory to the Company who is knowledgeable and experienced in financial and business matters and that he or she is capable of evaluating, alone or together with the purchaser representative, the merits and risks of exercising the Option, and (ii) to give written assurances satisfactory to the Company stating that the Participant is acquiring the stock subject to the Option for the Participant's own account and not with any present intention of selling or otherwise distributing the stock. The Company may, upon advice of counsel to the Company, place legends on stock certificates issued under the Plan as such counsel deems necessary or appropriate in order to comply with applicable securities laws, including, but not limited to, legends restricting the transfer of the stock. To the extent required by California law, Participants who are California residents shall receive financial statements annually in the form available from the Company.

11.11 No Adjustment. Except as hereinbefore expressly provided, issuance by the Company of shares of stock of any class or securities convertible into shares of stock of any class, for cash, property, labor or services, upon direct sale, upon the exercise of rights or warranty to subscribe therefor, or upon conversion of shares or obligations of the Company convertible into such shares or other securities, and in any case whether or not for fair value, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number of shares of Common Stock subject to Options theretofore granted, or the purchase price per share of Common Stock subject to Options.

11.12 Substitution. Options may be granted under the Plan from time to time in substitution for stock awards of other corporations held by persons who become Eligible Persons as a result of a merger or consolidation of such other corporation with the Company or an Affiliate, the acquisition by the Company of all or a portion of the assets of such other corporation, or the acquisition by the Company of stock of such other corporation with the result that such other corporation becomes an Affiliate.



**Altimune, Inc.**  
**(Formerly, VAXIN, INC.)**  
**2001 NON-EMPLOYEE STOCK OPTION PLAN**

**Adopted November 28, 2001**  
**Approved by Shareholders December 31, 2001**

**1. PURPOSES**

The purposes of the Altimune, Inc. 2001 Non-Employee Stock Option Plan are (i) to align the interests of the Company's shareholders and recipients of Options under the Plan by increasing the proprietary interest of such recipients in the Company's growth and success and (ii) to advance the interests of the Company by attracting well-qualified persons by providing such persons with performance-related incentives. All references to "share", "shares", "option" or "options" under this Plan have been adjusted to reflect the Company's merger with PharmAthene, Inc. effected on May 4, 2017.

**2. DEFINITIONS**

For purposes of the Plan, the following terms shall have the following meanings:

"Affiliate" shall mean any parent corporation or subsidiary corporation of the Company, whether now or hereafter existing, as those terms are defined in Sections 424(e) and (f), respectively, of the Code.

"Board" shall mean the Board of Directors of the Company or a Committee appointed by the Board of Directors of the Company.

"Change in Control" shall mean (a) the acquisition of power to direct, or cause the direction of, the management and policies of the Company by a person (not previously possessing such power), acting alone or in conjunction with others, whether through the ownership of Common Stock, by contract or otherwise, (b) the acquisition of Common Stock which results in, directly or indirectly, the power to vote more than 50% of the outstanding Common Stock by any person or by two or more persons acting together, or (c) the election of the Company's Board of Directors, without the recommendation of the incumbent Board of Directors of the Company, of directors constituting a majority of the number of directors of the Company then in office. For purposes of this definition, (i) the term "person" means a natural person, corporation, partnership, joint venture, trust, government or instrumentality of a government, and (ii) customary agreements with or between underwriters and selling group members with respect to a bona fide public offering of Common Stock shall be disregarded.

"Code" shall mean the Internal Revenue Code of 1986, as amended, or any successor legislation.

"Committee" shall mean the members of the Board, or a committee appointed by the Board to administer this Plan (including an "Outside Committee" as defined in Section 6.3), such committee to at all times consist of two or more members of the Board. The Board may from time to time remove members from, or add members to, the Committee. Vacancies on the Committee shall be filled by the Board. The Committee shall select one of its members as Chairman and shall hold meetings at such times and places as it may determine.

“Common Stock” shall mean the common stock, \$0.0001 par value per share, of the Company.

“Company” shall mean Vaxin, Inc., a Delaware corporation, and its Affiliates.

“Continuous Service” shall mean the absence of any disruption or termination of a Participant’s service with the Company as an Eligible Person. Service shall not be considered interrupted in the case of (i) a change in the Participant’s capacity as an Eligible Person or entity in which the Participant renders service, so long as such entity is an Affiliate or (ii) transfers between payroll locations of the Company or successor. The Board of directors in its discretion shall determine the effect of sick leave, military leave, or other leave of absence approved by the Company.

“Disability” shall mean permanent and total disability as generally determined by the Company.

“Eligible Person” shall mean any Person eligible to participate in the Plan pursuant to Section 3 of the Plan.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Fair Market Value” shall mean the fair market value of a share of Common Stock as determined in good faith by the Board, using such methodology as it in its sole discretion may deem appropriate, or, if at any time the Common Stock is publicly traded on any exchange or any over-the-counter market, the closing sales price for such stock (or closing bid if no sales were reported) as quoted on such exchange or market on the last market trading day prior to the date of determination as reported by the Wall Street Journal, or such other source as the Board deems reliable.

“Non-ISO” shall mean an Option granted under this Plan to purchase Common Stock which is not intended by the Company to satisfy the requirements of Code Section 422.

“Option” shall mean Non-ISO granted pursuant to Section 7 hereof.

“Participant” shall mean any Person to whom an Option has been granted pursuant to this plan, or if applicable, such other person who holds an outstanding option.

“Plan” shall mean this Vaxin, Inc. 2001 Non-Employee Stock Option Plan, as amended from time to time.

“Retirement” shall mean attaining age 65 unless otherwise provided by a written agreement between the Participant and the Company or termination of employment under the terms of the Company’s then current retirement policy.

“Rule 16b-3” shall mean Rule 16b-3 promulgated under Section 16(b) of the Exchange Act or any successor to such rule.

“Securities Act” shall mean the Securities Act of 1933, as amended.

### 3. ELIGIBILITY AND PARTICIPATION

Directors, advisory board directors, consultants or similar persons associated with the Company who, in the judgment of the Board, are responsible for or contribute to the management, growth and/or profitability of the business of the Company are eligible to be granted Options under the Plan. Participants shall be selected from time to time by the Board, in its sole discretion, from among those eligible.

### 4. SHARES AVAILABLE

4.1 Number; Limitations. The total number of shares of Common Stock subject to issuance under the Plan may not exceed 247,750, subject to adjustment as provided by Section 4.3. The shares to be delivered under the Plan may consist, in whole or in part, of authorized but unissued shares of Common Stock or treasury Common Stock not reserved for any other purpose. The Company shall at all times reserve a sufficient number of shares to meet the requirements of the Plan. No fractional shares shall be issued under the Plan, nor shall any cash in lieu of fractional shares be paid.

4.2 Unused Stock. In the event any shares of Common Stock are subject to an Option which, for any reason, expires, terminates or, with the consent of the Participant, is canceled as to such shares, such Common Stock may again be made available for issuance under the Plan.

4.3 Adjustment Provisions. In the event of any stock split, stock dividend, recapitalization, reorganization, merger, consolidation, combination, exchange of shares, liquidation, spin-off or other similar change in capitalization, or any distribution to holders of Common Stock other than a cash dividend, the number and class of shares available under the Plan, the number and class of shares subject to each outstanding Option and the purchase price per share, and the number and class of shares subject to each other outstanding Option shall be appropriately adjusted by the Committee, such adjustments to be made without a change in the aggregate purchase price or reference price set forth in the agreements or other documents describing such Options.

### 5. EFFECTIVE DATE

The effective date of this Plan shall be the date it is adopted by the Board, if applicable, provided that the shareholders of the Company shall approve this Plan in accordance with Rule 16b-3, if applicable. If any Options are granted under the Plan before the date of such shareholder approval, such Options automatically shall be granted subject to such approval.

### 6. ADMINISTRATION

6.1 Administration and Interpretation. This Plan shall be administered by the Board. The Board acting in its absolute discretion shall exercise such powers and take such action as expressly called for under this Plan. Further, the Board shall have the power to interpret this Plan and the respective agreements executed thereunder, to prescribe rules and regulations relating to the Plan as it may deem advisable to carry out the Plan, to take such action in the administration and operation of this Plan as the Board deems equitable under the circumstances, and to make all other determinations necessary or advisable for administering the Plan. The

determination of the Board on matters within its authority under the Plan shall be conclusive, and such action shall be binding on the Company, on each affected Participant, and on each other person directly or indirectly affected by such action.

Each member of the Board shall be fully justified in relying or acting in good faith upon any report made by the independent public accountants of the Company and upon any other information furnished in connection with the Plan by any person or persons as the Board may deem advisable. In no event shall any person who is or has been a member of the Board be liable for any determination made or other action taken by him or any failure by him to act in reliance upon any such report or information, if in good faith. The members of the Board may be entitled to indemnification and reimbursement by the Company in respect of any claim, loss, damage or expense (including attorney's fees) arising therefrom to the full extent permitted by law and under any directors' and officers' liability insurance that may be in effect from time to time, in all events as a majority of the Board then in office may determine from time to time, as evidenced by a written resolution thereof. In addition, no member of the Board and no employee of the Company shall be liable for any act or failure to act, by any other member or other employee, or by any agent, to whom duties in connection with the administration of this Plan have been delegated, or for any act or failure to act by such member or employee, except in circumstances involving such member's or employee's bad faith, gross negligence, intentional fraud or violation of a statute.

## 7. OPTIONS

7.1 (a) Grants. Options shall be Non-ISOs and a separate certificate or certificates will be issued for shares purchased on exercise of each Option. The Board shall have the authority to grant to any Eligible Person one or more Non-ISOs.

7.2 Terms of Options. Options granted under this Plan shall be subject to the following terms and conditions and shall be in such form and contain such additional terms and conditions, not inconsistent with the terms of this Plan, as the Board shall deem desirable:

(a) Exercise Price. The exercise price per share of Common Stock purchasable under an Option shall be determined by the Committee at the time of grant.

(b) Option Term. The term of each Option shall be fixed by the Board, but no Option shall be exercisable more than ten (10) years after the date the Option is granted.

(c) Vesting and Exercisability. Except as provided in Sections 6 and 10 hereof, all Options granted under this Plan shall vest as provided in the Option Agreement pursuant to Section 7.3. The Option may be subject to such other terms and conditions on the time or times when it may be exercised (which may be based on performance or other criteria) as the Board may deem appropriate.

(d) Exercisability Upon Termination. In the event of the termination of a Participant's Continuous Service with the Company, the Participant may exercise his or her Option (to the extent exercisable on the date of termination) but only within the period of time ending upon the earlier of (i) the expiration date of the Option, (ii) the date three (3) months following such date of termination, or (iii) such longer or shorter period specified in the Option Agreement. If the Option is not exercised within the time specified herein, the Option shall terminate.

(e) Method of Exercise. An Option may be exercised (i) by giving written notice to the Company specifying the number of whole shares of Common Stock to be purchased with the purchase price therefor to be payable in full either (A) in cash, (B) in previously owned whole shares of Common Stock (for which the holder of the Option has good title free and clear of all liens and encumbrances) with their Fair Market Value determined as of the date of exercise, (C) by authorizing the Company to retain whole shares of Common Stock which would otherwise be issuable upon exercise of the Option with their Fair Market Value determined as of the date of exercise, or (D) a combination of (A), (B) and (C), in each case to the extent determined by the Board at the time of grant of the Option, and (ii) by executing such documents as the Company may reasonably request. No shares of Common Stock shall be issued until the full purchase price has been paid. The Corporation will, as soon as is reasonably possible, notify the Optionee of the amount of withholding tax, if any, that must be paid under federal, state and local law due to exercise of the Option. The Corporation shall have no obligation to deliver certificates for the shares purchased until Optionee pays to the Corporation the amount of withholding specified in the Corporation's notice in cash or in Common Stock. Optionee may direct the Corporation to withhold that number of shares of Common Stock (valued according to the procedures set forth in this section on the date of withholding) sufficient to satisfy such obligation.

7.3 Option Agreement. As determined by the Board on the date of grant, each Option shall be evidenced by a written option agreement and no such Option shall be valid until so evidenced ("Option Agreement"). Such agreement shall specify, among other things, the type of Option granted, the Option price, the duration of the Option, the number of shares of Common Stock to which the Option pertains, and the schedule on which such Options become exercisable.

## **8. REPURCHASE; RESTRICTIONS ON TRANSFER**

8.1 Repurchase. The Option Agreement or written employment agreement with the Company ("Employment Agreement") may provide for terms under which the Company shall have the right and option to repurchase all of the shares of Common Stock held by the Participant which were acquired pursuant to Options granted under this Plan. In addition, the Board may at any time offer to buy out an Option previously granted or shares acquired pursuant to an Option, based on such terms and conditions as the Board shall establish and communicate to the Participant at the time such offer is made.

### 8.2 Restrictions on Transfer

(a) Any attempted transfer of an Option or Common Stock issued pursuant to the exercise of any Option in violation of the terms of this Plan or the Option Agreement shall be ineffective to vest any legal or beneficial interest in such Option or Common Stock in any transferee and shall be null and void. Without limiting the foregoing, any purported transfer by the Participant in violation hereof shall be ineffective as against the Company, and the Company shall have a continuing right and option (but not an obligation), until this Plan terminates, to purchase Common Stock purported to be transferred by or for the Participant for a price and on

terms the same as those at which such Common Stock could have been purchased hereunder at the time of the transfer. Nevertheless, the Company may in any particular circumstance, by action of its Board of Directors, waive these restrictions on transfer.

(b) Notwithstanding the foregoing, the Participant may, in form acceptable to the Company, designate a third party who, in the event of death of the Participant, shall thereafter be entitled to exercise the Option. Options may only be exercised or settled during the Participant's lifetime by the Participant or his or her guardian, conservator or other legal representative. Options shall not in any manner be subject to the debts, contracts, liabilities, engagements or torts of any person who shall be entitled to such benefit, nor shall they be subject to attachment or legal process for or against such person.

(c) If the Participant is an individual, the Participant may transfer, without complying with the provisions of this Section 8, such Participant's Common Stock by way of gift to any member of the Participant's family or to a trust for the benefit of any such family member or the Participant, provided the transferee agrees in writing to be bound by the terms and conditions of this Plan and the Option Agreement (including without limitation this Section 8), or by will or the laws of descent and distribution, in which event each such transferee shall be bound by all of the provisions of this Plan and the Option Agreement to the same extent as if such transferee were the Participant. As used in this Plan or the Option Agreement, the word "family," shall include any spouse, lineal ancestor or descendant, or brother or sister.

8.3 Notice of Proposed Sale. If at any time a Participant desires to sell or transfer any shares of Common Stock owned by the Participant, the Participant shall give written notice to the Company (the "Notice") setting forth the Participant's desire to sell or transfer such Common Stock (the "Offered Shares"), which Notice shall set forth the amount and type of such Common Stock, the price per share and any other material terms and conditions relating to the proposed sale or transfer, including the identity of the transferee, if known.

#### 8.4 Company's Option to Purchase.

(a) The Company shall have a non-assignable option to purchase all or any part of the Offered Shares for the consideration per share and on the terms and conditions specified in the Notice. The Company must exercise such option, no later than twenty (20) days after such Notice is sent by U. S. mail to the Company's main office (the "Option Period"), by written notice to the Participant. If the Company elects to purchase all of such Offered Shares, the Company shall be obligated to purchase, and the Participant shall be obligated to sell or transfer to the Company such Offered Shares at the price and terms indicated in the Notice.

(b) In the event the Company does not exercise its option within the Option Period with respect to all of the Offered Shares, the Company shall cause its Secretary, by the last day of the Period, to give written notice of that fact to the Participant. However, the Company shall have the right to disapprove any transferee by written notice to the Participant during the Option Period of the reasons therefore, which disapproval shall not be unreasonably given.

(c) In the event the Company duly exercises its option to purchase all or part of the Offered Shares, the closing of such purchase shall take place at the offices of the Company on the date five days after the expiration of the Option Period.

(d) To the extent that the consideration proposed to be paid for the Offered Shares consists of property other than cash or a promissory note, the consideration required to be paid by the Company exercising its option may consist of cash equal to the value of such property, as determined in good faith by agreement of the Participant and the Company (by action of its Board of Directors).

(e) The right of first refusal established by this Section 8.4 shall not apply to and shall terminate upon an IPO of the Company's Common Stock.

(f) Failure to Fully Exercise Options. In the event that the Company does not fully exercise its option to purchase the Offered Shares within the Option Period and does not notify the Participant of its disapproval of the transferee, then the option of the Company to purchase the Offered Shares, whether exercised or not, shall terminate. In such event, the Participant may sell or transfer any or all of such Offered Shares during the ninety (90) days following the expiration of the Option Period, provided that: (a) such sale or transfer shall only be made pursuant to the terms of the Notice (or, at the Participant's option, at a price that is higher than the price set forth in the Notice but otherwise on the terms set forth therein); (b) the Participant shall not sell or transfer such Offered Shares to a competitor of the Company without the prior written consent of the Company, duly authorized by the Board of Directors; and (c) prior to the sale or transfer of such Offered Shares, the transferee shall execute an agreement with the Company pursuant to which the transferee agrees to be subject to the right of first refusal set forth in this Section 8.4. If the Offered Shares are not sold or transferred pursuant to the provisions hereof within such time period, the Offered Shares shall remain subject to the terms of this Plan.

## **9. TERMINATION OR AMENDMENT**

This Plan may be amended, suspended or terminated by the Board from time to time to the extent that the Board deems necessary or appropriate; provided, however, that no amendment shall be made without shareholder approval to the extent such approval is required by Rule 16b-3 or any securities exchange listing requirements. The Board may in its sole discretion submit any other amendment for shareholder approval.

The Board also may suspend the granting of Options under this Plan at any time and may terminate this Plan at any time; provided, however, rights under any Option granted before any amendment, suspension or termination of the Plan shall not be impaired by such action unless (i) the Participant consents in writing to such action or (ii) such action is pursuant to a dissolution or liquidation of the Company or a transaction described in Sections 4.3 or 10 of this Plan.

The Board at any time, and from time to time, may amend, modify or cancel the terms of any one or more Options; provided, however, that the rights under any Option shall not be impaired by any such amendment modification or cancellation except as provided in clause (i) or (ii) above.

## 10. CHANGE IN CONTROL AND OTHER CORPORATE EVENTS

10.1 Sale, Merger or Consolidation. Unless the Option Agreement or Employment Agreement provide otherwise, in the event that the Company is a party to (i) a sale of all or substantially all of the assets of the Company other than to an Affiliate, (ii) a merger or consolidation in which the Company is not the surviving corporation, or (iii) a reverse merger in which the Company is the surviving corporation but the shares of Common Stock outstanding immediately preceding the merger are converted by virtue of the merger into other property, whether in the form of securities, cash or otherwise, outstanding Options shall be subject to the agreement of sale, merger or consolidation, which agreement may provide without the affected Participant's consent for:

- (a) The continuation of such outstanding Options by the Company (if the Company is the surviving corporation);
- (b) The assumption of the Plan and such outstanding Options by the surviving corporation or its parent;
- (c) The substitution by the surviving corporation or its parent of options with substantially the same terms for such outstanding Options; or
- (d) The cancellation of each outstanding Option after payment to the Participant of an amount in cash or cash equivalents equal to (i) the Fair Market Value of the Common Stock subject to such Option at the time of the sale, merger or consolidation minus (ii) the exercise price of the Common Stock subject to such Option, or
- (e) The acceleration of vesting of Options and termination of such Options if not exercised at or prior to such event.

A transaction shall not be subject to this Section if the sole purpose is to change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

10.2 Change in Control. Unless the Option Agreement or Employment Agreement provide otherwise, if there is a Change in Control of the Company, the Board thereafter shall have the right to take such action with respect to any outstanding Options as the Board deems appropriate under the circumstances to protect the interest of the Company in maintaining the integrity of such Options under this Plan, including entering into an agreement providing for the terms permitted by Section 10.1 in the event of a sale or merger of the Company. The Board shall have the right to take different action under this Section 10.2 with respect to different Participants or different groups of Participants, as the Board deems appropriate under the circumstances. Except for the terms permitted by Section 10.1, in no event shall the Board take any action under this Section 10.2 which would impair the value of such Options, without the affected Participant's consent.



10.3 Dissolution or Liquidation. In the event of dissolution or liquidation of the Company, then all outstanding Options shall terminate immediately prior to such event.

(a) the tenth anniversary of the effective date of this Plan (as determined under Section 5 of this Plan), in which event this Plan thereafter shall continue in effect until all outstanding Options have been exercised in full and/or became fully vested or no longer are exercisable; or

(b) the date on which all of the Common Stock reserved under Section 4.1 of this Plan has (as a result of the exercise and/or vesting of Options granted under this Plan) been issued or no longer is available for use under this Plan, in which event this Plan also shall terminate on such date.

Except as provided herein, this Plan shall remain in effect until all Options granted under the Plan have been exercised or expired by reason of lapse of time.

## 11. GENERAL PROVISIONS

11.1 Unfunded Status of Plan. This Plan is intended to be unfunded. With respect to any payments as to which a Participant has a fixed and vested interest but which are not yet made to a Participant by the Company, nothing contained herein shall give any such Participant any rights that are greater than those of a general creditor of the Company.

11.2 No Right to Option or Continuous Service. Neither this Plan nor the grant of any Option hereunder shall give any Participant any right with respect to (i) an Option or any other rights except as evidenced by a written agreement related to an Option, or (ii) Continuous Service with the Company, nor shall this Plan or the grant of an Option hereunder be a limitation in any way on the right of the Company to terminate his or her employment or other relationship with the Company at any time.

11.3 Use of Proceeds. The proceeds received by the Company from the sale of Common Stock pursuant to the exercise of Options under the Plan shall be added to the Company's general funds and used for general corporate purposes.

11.4 Other Plans. In no event shall the value of, or income arising from, any Options under this Plan be treated as compensation for purposes of any pension, profit sharing, life insurance, disability or any other retirement or welfare benefit plan now maintained or hereafter adopted by the Company, unless such plan specifically provides to the contrary.

11.5 Section 16. It is intended that the Plan and any Options granted to a person subject to Section 16 of the Exchange Act meet all of the requirements of Rule 16b-3 to the extent applicable. If any provision of the Plan or any Option grant would disqualify the Plan or such Option, or would otherwise not comply with Rule 16b-3 to the extent applicable, such provision or Option shall be construed or deemed amended to conform to Rule 16b-3.

11.6 No Restriction on Right of Company to Effect Corporate Changes. Nothing in the Plan shall affect the right or power of the Company or its shareholders to make or authorize any adjustments, recapitalizations, reorganizations or other changes in the Company's capital

structure or its business, or any merger or consolidation of the Company, or any issue of stock or of options, warrants or rights to purchase stock or of bonds, debentures, preferred or prior preference stocks whose rights are superior to or affect the Common Stock or the rights thereof or which are convertible into or exchangeable for Common Stock, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

11.7 Shareholder Rights. A Participant shall have no rights as a shareholder with respect to any shares issued or issuable with respect to an Option until a certificate or certificates evidencing such shares shall have been issued to or for the benefit of such Participant, and no adjustment shall be made for dividends or distributions or other rights in respect of any share for which the record date is prior to the date upon which the Participant shall become the holder of record thereof.

11.8 Governing Law. This Plan and actions taken in connection herewith shall be governed and construed in accordance with the laws of the State of Delaware (without regard to applicable Delaware principles of conflict of laws).

11.9 Construction. Wherever any words are used in this Plan in the masculine gender, they shall be construed as though they were also used in the feminine gender in all cases where they would so apply, and wherever any words are used herein in the singular form, they shall be construed as though they were also used in the plural form in all cases where they would so apply.

11.10 Securities Laws. (a) The Company shall not be obligated to issue any Common Stock pursuant to any Option granted under the Plan at any time when the offering of the shares covered by such Option has not been registered (or exempted) under the Securities Act and such other state and federal laws, rules or regulations as the Company or the Board deems applicable and, in the opinion of legal counsel for the Company, there is no exemption from the registration requirements of such laws, rules or regulations available for the issuance and sale of such shares. If after reasonable efforts, the Company is unable to obtain from any regulatory commission or agency having jurisdiction over the Plan such authority as may be required to issue Common Stock pursuant to any Option, the Company shall be relieved from any liability for failure to issue such stock unless and until such authority is obtained. Nothing shall require the Company to register under the Securities Act the Plan, any Option or any Common Stock issued or issuable pursuant to any Option. The Company may require a Participant, as a condition of exercising or acquiring stock under any Option, (i) to give written assurances satisfactory to the Company as to the Participant's knowledge and experience in financial and business matters and/or to employ a purchaser representative reasonably satisfactory to the Company who is knowledgeable and experienced in financial and business matters and that he or she is capable of evaluating, alone or together with the purchaser representative, the merits and risks of exercising the Option, and (ii) to give written assurances satisfactory to the Company stating that the Participant is acquiring the stock subject to the Option for the Participant's own account and not with any present intention of selling or otherwise distributing the stock. The Company may, upon advice of counsel to the Company, place legends on stock certificates issued under the Plan as such counsel deems necessary or appropriate in order to comply with applicable securities laws, including, but not limited to, legends restricting the transfer of the stock. To the extent required by California law, Participants who are California residents shall receive financial statements annually in the form available from the Company.

11.11 No Adjustment. Except as hereinbefore expressly provided, issuance by the Company of shares of stock of any class or securities convertible into shares of stock of any class, for cash, property, labor or services, upon direct sale, upon the exercise of rights or warranty to subscribe therefor, or upon conversion of shares or obligations of the Company convertible into such shares or other securities, and in any case whether or not for fair value, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number of shares of Common Stock subject to Options theretofore granted, or the purchase price per share of Common Stock subject to Options.

11.12 Substitution. Options may be granted under the Plan from time to time in substitution for stock awards of other corporations held by persons who become Eligible Persons as a result of a merger or consolidation of such other corporation with the Company or an Affiliate, the acquisition by the Company of all or a portion of the assets of such other corporation, or the acquisition by the Company of stock of such other corporation with the result that such other corporation becomes an Affiliate.