

---

---

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

---

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

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

For the fiscal year ended December 31, 2023

OR

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

For the transition period from to

Commission File Number 001-36464

---

**Agile Therapeutics, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**23-2936302**

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

**500 College Road East, Suite 310  
Princeton, New Jersey 08540**

(Address including zip code of principal executive offices)

**(609) 683-1880**

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act: **None.**

Securities registered pursuant to Section 12(g) of the Act: **Common Stock, par value \$0.0001 per share**

---

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

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

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

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

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Indicate by check mark whether any of those corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to § 240.10D-1(b).

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

The aggregate market value of the voting stock held by non-affiliates of the registrant as of June 30, 2023 was approximately \$4.8 million.

As of April 24, 2024, there were 6,528,229 shares of the registrant's common stock outstanding.

**DOCUMENTS INCORPORATED BY REFERENCE**

None.

---

---

## EXPLANATORY NOTE

Throughout this document Agile Therapeutics, Inc. is referred to as “Agile” or the “Company” and, together with its subsidiaries, as “we,” “us,” or “our.”

On March 28, 2024, Agile filed its Annual Report on Form 10-K for the fiscal year ended December 31, 2023 (the “Original Form 10-K”). Certain Part III information was omitted from the Original Form 10-K in reliance on General Instruction G(3) to Form 10-K. General Instruction G(3) to Form 10-K provides that registrants may incorporate by reference certain information from a definitive proxy statement which involves the election of directors if such definitive proxy statement is filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year. We do not anticipate that Agile’s definitive proxy statement involving the election of directors in connection with its Agile’s fiscal year 2024 annual meeting of stockholders will be filed by April 29, 2024 (i.e., within 120 days after the end of the 2023 fiscal year). Accordingly, this Amendment No. 1 (this “Amendment”) hereby amends and restates Part III, Items 10 through 14, of the Original Form 10-K as set forth below. The information included herein as required by Part III, Items 10 through 14, of the Original Form 10-K is more limited than what is required to be included in the definitive proxy statement to be filed in connection with our 2024 annual meeting of stockholders. Accordingly, the definitive proxy statement to be filed at a later date will include additional information related to the topics herein and additional information not required by Part III, Items 10 through 14, of Form 10-K.

This Amendment also restates Item 15 of Part IV of the Original Form 10-K. In addition, as required by Rule 12b-15 under the Securities Exchange Act of 1934, as amended, new certifications by our principal executive officer and principal financial officer are filed as exhibits to this Amendment under Item 15 of Part IV hereof.

No other amendments are being made hereby to the Original Form 10-K. Except as stated herein, this Amendment does not reflect events occurring after the filing of the Original Form 10-K with the SEC on March 28, 2024, and no attempt has been made in this Amendment to modify or update other disclosures as presented in the Original Form 10-K. Terms used but not defined herein have the meanings given to them in the Original Form 10-K.

**Agile Therapeutics, Inc.**  
**Annual Report on Form 10-K**  
**For the Year Ended December 31, 2023**

**Table of Contents**

	<b><u>Page</u></b>
<a href="#">Explanatory Note</a>	2
<b><u>PART III</u></b>	
<a href="#">Item 10. Directors, Executive Officers and Corporate Governance</a>	4
<a href="#">Item 11. Executive Compensation</a>	18
<a href="#">Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters</a>	33
<a href="#">Item 13. Certain Relationships and Related Transactions and Director Independence</a>	35
<a href="#">Item 14. Principal Accounting Fees and Services</a>	36
<b><u>PART IV</u></b>	
<a href="#">Item 15. Exhibits, Financial Statement Schedules</a>	37

**PART III**

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

**Information about our Directors**

Our Board of Directors (the “Board”) is currently comprised of six (6) members. Set forth below are the names, ages as of April 29, 2024, and certain biographical information regarding our directors.

<u>Name</u>	<u>Age</u>	<u>Principal Occupation and Business Experience</u>
Al Altomari	65	Mr. Altomari has served as our Chairperson of the Board and Chief Executive Officer since October 2016 and has been a member of our Board since February 2004. Mr. Altomari served as President and Chief Executive Officer from 2010 to 2016. Previously Mr. Altomari served as Agile’s Executive Chairman from 2004 to 2010. From 2003 to 2008, Mr. Altomari held multiple senior management positions at Barrier Therapeutics, Inc., including Chief Commercial Officer, Chief Operating Officer, and Chief Executive Officer. In 2008, in his role as Chief Executive Officer and as a member of Barrier’s Board of Directors, Mr. Altomari completed the successful sale of Barrier to Stiefel Laboratories, which was subsequently acquired by GlaxoSmithKline plc. From 1982 to 2003, Mr. Altomari held numerous executive roles in general management, commercial operations, business development, product launch preparation, and finance with Johnson & Johnson. Mr. Altomari also serves on the Board of Directors of Insmid Inc. He previously served on the Board of Directors of Recro Pharm, Inc. and Baudax Bio. Mr. Altomari received an M.B.A. from Rider University and his B.S. from Drexel University. He currently serves as a Trustee of Drexel University and is on the LeBow College of Business Advisory Board and the Board of the Charles D. Close School of Entrepreneurship at Drexel University. We believe Mr. Altomari’s qualifications to sit on our Board of Directors include his extensive pharmaceutical industry leadership and operations experience.

<u>Name</u>	<u>Age</u>	<u>Principal Occupation and Business Experience</u>
John Hubbard, Ph.D., FCP	67	<p>Dr. Hubbard has served as a member of our Board since November 2014. Dr. Hubbard currently serves on the Strategic Advisory Board of Genstar Capital and is responsible for advising the private equity firm on investments in the area of healthcare. He is the Chairman of Precision Medicine Group, a privately owned clinical research organization, and of Signant Health, a privately owned specialty clinical trials and technology service provider. He also serves as a non-Executive Director on the Board of Directors of Science 37 Holdings, Inc., a public telemedicine and clinical trial technology provider and Advarra, a privately owned institutional review board. Dr. Hubbard was President and the Chief Executive Officer of BioClinica, a leading privately owned provider of medical imaging, clinical technology and research services until January 1, 2018. Prior to joining BioClinica, he was Senior Vice President and Worldwide Head of Development Operations for Pfizer Inc. and was responsible for the global clinical trial operations and management of more than 450 clinical projects from Phase I to IV. He was a founding member of the Board of Directors of TransCelerate Biopharma, Inc., a leading biopharma industry consortium, and served on the Executive, Audit and Finance Committees. Dr. Hubbard has been leading pharmaceutical research and development activity for over thirty years and held positions of increasing responsibility in the biopharmaceutical and clinical research and development services industries. Prior to joining Pfizer in 2010, he was Group President, Global Clinical Research Services at ICON plc, a leading global clinical research organization, where he was responsible for the global business and operations. He is an Executive Committee Member Emeritus on the Clinical Trials Transformation Initiative, former Board Member of Life Sciences Pennsylvania and former Chairman of the Board of the Association of Clinical Research Organizations (ACRO). During his career, Dr. Hubbard has been directly responsible for drug discovery and non clinical pharmacology, clinical pharmacology, project management, product development optimization, commercial assessment of new chemical entities, and clinical development operations. He has led several drug development teams to successful commercialization of new chemical entities and has participated at FDA meetings to support end of Phase II and end of Phase III data presentations for psychiatric, neurological, cardiovascular, and anti infective drugs. Dr. Hubbard received a Bachelor of Science degree in Biopsychology from the University of Santa Clara and a Doctorate from the University of Tennessee, with a research focus on the genetic basis of hypertension and autonomic dysfunction. He was a National Institute of Health Postdoctoral Fellow in Cardiovascular and Clinical Pharmacology at the University of Texas Health Sciences Center. We believe Dr. Hubbard's qualifications to sit on our Board include his extensive pharmaceutical experience leading research operations and his significant educational background.</p>

<u>Name</u>	<u>Age</u>	<u>Principal Occupation and Business Experience</u>
Sandra Carson, M.D., FACOG	70	<p>Dr. Carson has served as a member of our Board since June 2020. Dr. Carson is a Professor of Obstetrics, Gynecology and Reproductive Sciences and Director, Reproductive Endocrinology and Infertility at Yale University. Most recently, she served as the Emeritus Vice President for Education at the American College of Obstetricians &amp; Gynecologists (ACOG) from August 2018 to February 2019 and Vice President for Education from March 2013 to August 2018. Prior to joining ACOG she served as Professor and Director of the Division of Reproductive Endocrinology and Infertility at Brown University from January 2007 to February 2013. She had previously directed the Assisted Reproductive Technology programs at the University of Tennessee (1986-1998) and the Baylor College of Medicine from October 1998 to June 2007. Dr. Carson is one of the foremost leaders in the field of reproductive endocrinology and infertility and she has published over 150 papers, received numerous competitive grants and had a major impact on the field. She has held multiple national leadership positions including President of the American Society for Reproductive Medicine (ASRM), Member of the council of the National Institutes of Child Health and Human Development, Head of the Reproductive Endocrinology and Infertility Division of the American Board of Obstetrics and Gynecology (ABOG), Director and Vice President of the ABOG board and Vice President of ACOG. Dr. Carson served on the U. S. Food and Drug Administration’s Fertility and Maternal Health Drugs Advisory Committee from July 1992 to July 1996 and then from 2007 to 2009. Dr. Carson is a board-certified OB/GYN. She received her Doctor of Medicine degree and completed her residency fellowship training at Northwestern University Medical School and fellowship training at Michael Reese Hospital Medical Center, University of Chicago. We believe Dr. Carson’s qualifications to sit on our Board include her extensive medical and clinical experience in the area of Obstetrics, Gynecology and Reproductive Sciences and her significant educational background.</p>
Seth H.Z. Fischer	68	<p>Mr. Fischer has served as a member of our Board since July 2016, and as our Lead Independent Director since June 2020. Mr. Fischer currently serves as a member of the Board of Directors of Milestone Pharmaceuticals, Inc., Marinus Pharmaceuticals, Inc., Spectrum Pharmaceuticals, Inc., and Esperion Therapeutics, Inc. and is also an advisor to MedHab, LLC. Previously, from 2013-2017, Mr. Fischer served as the Chief Executive Officer and as a Director of Vivus, Inc., a publicly traded biopharmaceutical company commercializing and developing innovative, next-generation therapies to address unmet needs. He has served in positions of increasing responsibility with Johnson &amp; Johnson from 1983 until his retirement in 2012. Most recently, Mr. Fischer served as Company Group Chairman, Johnson &amp; Johnson and Worldwide Franchise Chairman, Cordis Corporation from 2008 to 2012, and as Company Group Chairman, North America Pharmaceuticals from 2004 to 2007, which included responsibilities for Ortho-McNeil Pharmaceuticals, Janssen and Scios. Prior to that, Mr. Fischer served as President of Ortho-McNeil Pharmaceuticals from 2000 to 2004. His operating responsibilities encompassed the commercialization of products in multiple therapeutic categories including Topamax® for epilepsy and migraine and products in the analgesic, anti-infective, cardiovascular, neurologic, psychiatric and women’s health areas, including ORTHO EVRA®, one of the most successful contraceptive launches in the U.S. and the first ever contraceptive patch. He earned a Bachelor of General Studies from Ohio University and served as a captain in the U.S. Air Force. We believe Mr. Fischer’s qualifications to sit on our Board include his extensive pharmaceutical industry leadership and operations experience.</p>

<u>Name</u>	<u>Age</u>	<u>Principal Occupation and Business Experience</u>
Josephine Torrente	58	Ms. Torrente has served as a member of our Board since October 2021. Ms. Torrente has more than 30 years of experience in the pharmaceutical industry, and is currently a Director at Hyman, Phelps & McNamara PC, a law firm focused on advising clients on FDA matters, where she has practiced since 1998. In addition to her time at Hyman, Phelps & McNamara, Ms. Torrente has worked at Sprout Pharmaceuticals as Executive Vice President, Corporate and Regulatory Affairs, and Wyeth-Ayerst Research, where she managed U.S. regulatory affairs and conducted discovery research. Ms. Torrente received her B.S. with honors from Case Western Reserve University, her M.S. from the University of Alabama at Birmingham, and her J.D. summa cum laude from Temple University School of Law. We believe Ms. Torrente's qualifications to sit on our Board include her extensive pharmaceutical experience advising Companies on FDA regulatory and drug development matters and her significant educational background.
Sharon Barbari	70	Ms. Barbari has served as a member of our Board since June 2020. Ms. Barbari has over 40 years of pharmaceutical and biotechnology experience. From 2004 to 2017, she was Chief Financial Officer at Cytokinetics. From 2002 to 2004, she was employed as Chief Financial Officer and Senior Vice President of Finance and Administration at InterMune. Ms. Barbari spent four years from 1998 to 2002 in senior financial roles at Gilead Sciences, including Chief Financial Officer. In this capacity, she led the finance, accounting, and information technology functions during a period of significant growth for Gilead. Ms. Barbari was also employed as Vice President of Strategic Planning at Foote, Cone & Belding Healthcare. She began her career at Syntex Corporation/Roche Pharmaceuticals, where she held various roles of increasing responsibility from 1972 to 1996. Ms. Barbari currently serves as a board member for Vyne Therapeutics (formerly Menlo Pharmaceuticals and Foamix Pharmaceuticals). She previously was a board member for the Association of Bioscience Finance Officers Northern California Chapter and Phytogen Life Sciences. In 2017, Ms. Barbari was a recipient of the YWCA Silicon Valley Tribute to Women Awards. She received her B.S. in accounting from San Jose State University. We believe Ms. Barbari's qualifications to sit on our Board include her extensive pharmaceutical industry leadership and financial operations experience.

## CORPORATE GOVERNANCE

### Corporate Governance Materials and Practices

Our Board structure reflects our Corporate Governance Principles and commitment to good governance. The Board believes the governance structure we have created among the Board, its committees, the Lead Independent Director, the Board chairperson and Chief Executive Officer, and management is supporting the growth of the Company.

Our written corporate governance materials, including our amended and restated bylaws, Corporate Governance Guidelines, Code of Business Conduct and Ethics, Audit Committee Charter, Compensation Committee Charter, Nominating and Corporate Governance Committee Charter, Science and Technology Committee Charter, and Lead Independent Director Charter are posted on our website at [www.agiletherapeutics.com](http://www.agiletherapeutics.com) under the heading “Investor Relations—Corporate Governance.” Our corporate governance practices include the following:

- Our Board has a Lead Independent Director with robust and defined responsibilities set forth in a charter, and all our non-employee directors and committee members are independent.
- Our Board oversees succession planning for executive officers, including the Chief Executive Officer.
- Directors have access to all levels of management and are provided with opportunities to meet with members of management on a regular basis.
- Directors may retain their own independent advisors at our expense, including, for example, an independent consultant who works with our compensation committee on executive compensation issues.
- Our Board and each committee thereof regularly hold executive sessions at the end of Board and committee meetings and conduct self-evaluations at least once per year to assess their performance and ways in which performance could be improved.
- Our Board addresses the importance of incorporating new viewpoints through the director evaluation and nomination process. Our director composition reflects a mix of tenure on our Board (ranging from two (2) years to twenty (20) years), which we believe provides an effective balance of historical perspective and an understanding of the evolution of the Company with fresh perspectives and insights.



**Board Diversity Matrix**

The tables below provide certain highlights of the composition of our Board as of April 29, 2024. Each of the categories listed in the tables below has the meaning as it is used in Nasdaq Rule 5605(f).

Board Diversity Matrix				
Total Number of Directors	6			
	Female	Male	Non-Binary	Did Not Disclose Gender
<b>Part I: Gender Identity</b>				
Directors	3	3	0	0
<b>Part II: Demographic Background</b>				
African American or Black	0	0	0	0
Alaskan Native or Native American	0	0	0	0
Asian	0	0	0	0
Hispanic or Latinx	0	0	0	0
Native Hawaiian or Pacific Islander	0	0	0	0
White	3	2	0	0
Two or More Races or Ethnicities	0	0	0	0
LGBTQ+	0			
Did Not Disclose Demographic Background	1			

**Environmental, Social and Governance Considerations**

We are a forward-thinking women’s healthcare company dedicated to fulfilling the unmet needs of today’s women, and we take our responsibility to patients, employees, the medical community, and the communities in which we live and work very seriously. We are an emerging company that is focused on growing as a commercial organization. In addition, our business model is structured to rely on a small number of key employees in our headquarters and outsource operations through strategic partnerships. As a result, we have a relatively small corporate footprint particularly because we have a small office space and do not have any manufacturing operations. We are taking steps to minimize the environmental impact and carbon footprint of our corporate offices. We recognize that as we grow, we have an opportunity to positively influence a variety of environmental, social and governance (“ESG”) considerations and partner with companies that reflect our values as a company and our commitment to our larger community. Our Board helps to shape and monitor management’s approach to ESG. We plan to seek ways to incorporate these ESG considerations into our business plans with a strategic focus on the following areas:

*Diversity, Equity and Inclusion:* We are focused on promoting diversity in our workforce and to taking steps to support equity and inclusion for all. We believe that these values provide us with a competitive advantage that can drive creative and innovative thinking and ultimately enhance our business. We have a diverse Board and leadership team supporting our commercial operations. Overall, of the last seven (7) openings on our Board and management team, six (6) have been filled with women candidates. We continue to strive to enhance our Board and workforce diversity by ensuring we have a gender-balanced and diverse slate of qualified candidates for all open positions, advancing the development of diverse talent, and pursuing diverse succession plans both in our employee workforce and our Board.

*Patient Support:* Advancing women’s health is at the core of our mission. Our current product and product candidates are designed to offer women more freedom and flexibility through additional contraceptive options. The key phase 3 clinical trial we conducted to support the approval of Twirla, our transdermal contraceptive product, included a broad and diverse population of women representative of the U.S. female population seeking hormonal contraception. The trial included women across a broad range of demographic characteristics such as age, race, ethnicity and weight and was one of the first trials to generate data on the relationship

between body mass index, or BMI, and the safety and efficacy of a hormonal contraceptive. Our goal is to make our products as accessible as possible in all communities, and we are working with numerous stakeholders to enable this access as appropriate. We seek to support this objective with a comprehensive series of programs that include educational, product replacement and co-pay support (implemented in a compliant way). We also have engaged more broadly with women's health advocacy groups and other advisory groups to understand the needs of the patients we seek to help.

*Employee Wellness:* We believe that our employees are a key to our success. We are dedicated to investing in our employees and workplace culture. As part of this effort, we have put in place several financial wellness programs to help empower our workforce including offering a 401(k) match program, short-term and long-term disability insurance, and educational programs to help employees understand how to manage their finances. We also offer several programs to promote the physical and mental wellbeing of our employees, including an employee assistance program, disease management and prevention programs and financial incentives to encourage physical and emotional health.

*Environmental Impact:* We are cognizant of our responsibility to our broader environment and our need to grow in a sustainable way. We have a relatively small corporate footprint because we only have 18 employees and most of our operations, including our manufacturing operations, are outsourced. Nevertheless, we have supported several green measures in an effort to reduce our Company's carbon footprint in our corporate office. We continue to evaluate ways to enhance these and other sustainability measures.

*Governance:* We have adopted a Code of Business Conduct and Ethics (the "Code") which applies to all of our employees, officers and directors and outlines our commitment to ethical and compliant business practices. We promote compliance with all relevant government laws, rules and regulations; honest and ethical conduct; protection of company assets; and fair dealings and timely and accurate disclosures in all company reporting. All employees are required to understand, comply with and report any suspected violations of the Code and the Code is reviewed periodically to ensure it is appropriate in scope and achieves the objectives above.

*Community Service:* We are committed to giving back to our communities. We partake in several employee-led community service initiatives. Through our internal community outreach program – Agile Cares – and we host team-building events from time to time to support causes that are meaningful to our employees and our overall mission.

### **Code of Business Conduct and Ethics**

Our Board has adopted a code of business conduct and ethics. The code of business conduct and ethics ("CBCE") applies to all of our employees, officers and directors. The CBCE provides guidance on fundamental ethical and compliance-related principles and practices such as: accurate record keeping and reporting; avoiding conflicts of interest; protection and proper use of property and information; and compliance with legal and regulatory requirements. The full text of our code of business conduct and ethics is posted on our website at [www.agiletherapeutics.com](http://www.agiletherapeutics.com). We intend to disclose, to the extent required by applicable rules and regulations, future amendments to, or waivers of, our code of business conduct and ethics, at the same location on our website identified above or in public filings we will make with the SEC.

### **Hedging and Pledging Policies**

We have adopted an insider trading policy that includes a provision that restricts our directors, officers and employees from engaging in hedging or monetization transactions involving our securities, and from engaging in short sales of our securities. Our insider trading policy also prohibits our directors, officers and employees from holding our securities in margin accounts or otherwise pledging our securities as collateral for loans without prior written approval.

## **Board Composition**

Our business affairs are managed under the direction of our Board, which is currently composed of six (6) members. Five (5) of our six (6) directors are independent within the meaning of the listing rules of the Nasdaq Capital Market, or Nasdaq. Even though we are no longer listed on Nasdaq, we continue to use the independence standards of Nasdaq for purposes of determining the independence of our Board and committees. Our Board is divided into three classes with staggered three-year terms. At each annual meeting of stockholders, the successors to directors whose terms then expire will be elected to serve from the time of election and qualification until the third annual meeting following election. As a result, only one class of directors will be elected at each annual meeting of our stockholders, with the other classes continuing for the remainder of their respective three-year terms. Each director's term continues until the election and qualification of his or her successor, or the earlier of his or her death, resignation or removal. The classification of our Board may have the effect of delaying or preventing changes in our control or management.

## **Director Independence**

Our common stock is listed on the OTC – Current Pink Sheets, however, we continue to use the independence standards of Nasdaq for purposes of determining the independence of our Board and committees. The listing rules of Nasdaq generally require that a majority of the members of a listed company's Board be independent. In addition, the rules of Nasdaq require that, subject to specified exceptions, each member of a Nasdaq-listed company's audit, compensation, and nominating and corporate governance committees be independent. The Nasdaq director independence definition includes a series of objective tests, such as that the director is not also one of our employees and has not engaged in various types of business dealings with us. In addition, as further required by Nasdaq rules, our Board has made a subjective determination as to each independent director that no relationships exist, which, in the opinion of our Board, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. In making these determinations, our directors reviewed and discussed information provided by the directors and us regarding each director's business and personal activities as they may relate to us and our management.

Our Board has determined that none of our non-employee directors or director nominees has a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each of our current non-employee directors granted options is "independent" as that term is defined under Nasdaq rules. The independent members of our Board hold separate regularly scheduled executive session meetings at which only independent directors are present.

Audit committee members must also satisfy the independence criteria set forth in Rule 10A-3 under the Exchange Act. In order to be considered independent for purposes of Rule 10A-3, a member of an audit committee of a listed company may not, other than in his or her capacity as a member of the audit committee, the Board, or any other board committee, accept, directly or indirectly, any consulting, advisory, or other compensatory fee from the listed company or any of its subsidiaries; or be an affiliated person of the listed company or any of its subsidiaries. Each of the current members of our audit committee, Sharon Barbari, Seth H.Z. Fischer, and John Hubbard, Ph.D., FCP, qualify as an independent director pursuant to Rule 10A-3.

## **Board Leadership Structure**

Al Altomari is the Chairperson of our Board, and Seth H.Z. Fischer is our Lead Independent Director. Our Lead Independent Director chairs the executive sessions of our Board meetings, oversees the Board's annual self-evaluation process, provides feedback to the Chief Executive Officer, and works with the Chief Executive Officer to set agendas for Board meetings. We have a separate chairperson for each committee of our Board, all of whom are independent directors. The chairpersons of each committee report on the activities of their committees in fulfilling their responsibilities at the meetings of our Board.

Our Board has concluded that our current leadership structure is appropriate at this time. However, our Board will continue to periodically review our leadership structure and may make such changes in the future as it deems appropriate.

## Board Committees

Our Board has established an audit committee, a compensation committee, a nominating and corporate governance committee, and a science and technology committee, each of which operates pursuant to a charter adopted by our Board. The composition and functioning of all of our committees complies with all applicable requirements of the Sarbanes-Oxley Act of 2002, Nasdaq and SEC rules and regulations.

*Audit committee.* Ms. Barbari, Mr. Fischer and Dr. Hubbard currently serve on the audit committee, which is chaired by Ms. Barbari. Our Board has determined that each member of the audit committee is “independent” for audit committee purposes as that term is defined in the rules of the SEC and the applicable Nasdaq rules, and has sufficient knowledge in financial and auditing matters to serve on the audit committee. Our Board has determined that Ms. Barbari qualifies as an “audit committee financial expert,” as defined under the applicable rules of the SEC. The audit committee operates under a written charter that satisfies the applicable standards of the SEC and Nasdaq and which is available on our website at [www.agiletherapeutics.com](http://www.agiletherapeutics.com). Our audit committee met eight (8) times during the year ended December 31, 2023. The audit committee’s responsibilities include:

- appointing, approving the compensation of, and assessing the independence of our independent registered public accounting firm on an annual basis;
- pre-approving auditing and permissible non-audit services, and the terms of such services, to be provided by our independent registered public accounting firm;
- reviewing the overall audit plan with the independent registered public accounting firm and members of management responsible for preparing our financial statements;
- reviewing and discussing with management and the independent registered public accounting firm our annual and quarterly financial statements and related disclosures as well as critical accounting policies and practices used by us;
- coordinating the oversight and reviewing the adequacy of our internal control over financial reporting;
- establishing policies and procedures for the receipt and retention of accounting-related complaints and concerns;
- recommending based upon the audit committee’s review and discussions with management and the independent registered public accounting firm whether our audited financial statements shall be included in our Annual Report on Form 10-K;
- monitoring the integrity of our financial statements and our compliance with legal and regulatory requirements as they relate to our financial statements and accounting matters;
- preparing the audit committee report required by SEC rules to be included in our annual proxy statement;
- reviewing all related person transactions for potential conflict of interest situations and approving all such transactions;
- reviewing the Company’s risk assessment and risk management policies and procedures, and discussing with management the Company’s significant financial risk exposures and the actions management has taken to limit, monitor or control such exposures, including, but not limited to, reviewing, on an on-going basis, cybersecurity; and

- reviewing quarterly earnings releases.

*Compensation committee.* Mr. Fischer, Dr. Carson and Ms. Barbari currently serve on the compensation committee, which is chaired by Mr. Fischer. Dr. Carson replaced Dr. Ajit Shetty on the committee when Dr. Shetty did not stand for reelection to the Board at the Company’s annual meeting of stockholders on June 8, 2023. Our Board has determined that each member of the compensation committee is “independent” as defined in applicable Nasdaq rules. The compensation committee operates under a written charter that satisfies the applicable standards of Nasdaq and which is available on our website at [www.agiletherapeutics.com](http://www.agiletherapeutics.com). Our compensation committee met six (6) times during the year ended December 31, 2023. The compensation committee’s responsibilities include:

- annually reviewing and making recommendations to the Board with respect to corporate goals and objectives relevant to the compensation of our Chief Executive Officer;
- evaluating the performance of our chief executive officer in light of such corporate goals and objectives and making recommendations to the Board with respect to the compensation of our Chief Executive Officer;
- reviewing and approving the compensation of our other executive officers;
- reviewing and establishing our overall management compensation philosophy and policy;
- overseeing and administering our compensation and similar plans;
- reviewing and approving our policies and procedures for the grant of equity-based awards;
- reviewing and making recommendations to the Board with respect to director compensation;
- reviewing and discussing with management the compensation discussion and analysis, if any, to be included in our annual proxy statement or Annual Report on Form 10-K; and
- reviewing and discussing with the Board corporate succession plans for the Chief Executive Officer and other key officers.

Certain of our executive officers may provide information and assist our compensation committee in carrying out its functions, however, the compensation committee considers potential compensation actions and makes decisions independently. Our compensation committee has engaged the services of Pay Governance LLC (“Pay Governance”), a compensation consulting firm, to advise the compensation committee regarding the amount and types of compensation that we provide to our executives and directors and how our compensation practices compare to the compensation practices of other companies. Pay Governance reports directly to the compensation committee. Pay Governance does not provide any services to us other than the services provided to the compensation committee. The compensation committee believes that Pay Governance does not have any conflicts of interest in advising the compensation committee under applicable SEC rules or Nasdaq listing standards.

*Nominating and corporate governance committee.* Dr. Hubbard, Ms. Barbari, Dr. Carson, and Ms. Torrente currently serve on the nominating and corporate governance committee, which is chaired by Dr. Hubbard. Our Board has determined that each member of the nominating and corporate governance committee is “independent” as defined in applicable Nasdaq rules. The nominating and corporate governance committee operates under a written charter that satisfies the applicable standards of Nasdaq and which is available on our website at [www.agiletherapeutics.com](http://www.agiletherapeutics.com). Our nominating and corporate governance committee met three (3) times during the year ended December 31, 2023. The nominating and corporate governance committee’s responsibilities include:

- developing and recommending to the Board criteria for board and committee membership;

- establishing procedures for identifying and evaluating board of director candidates, including nominees recommended by stockholders;
- reviewing the size and composition of the Board to ensure that it is composed of members containing the appropriate skills and expertise to advise us;
- identifying individuals qualified to become members of the Board;
- recommending to the Board the persons to be nominated for election as directors and to each of the Board's committees;
- developing and recommending to the Board a code of business conduct and ethics and a set of corporate governance guidelines;
- developing a mechanism by which violations of the code of business conduct and ethics can be reported in a confidential manner;
- overseeing the evaluation of the Board and management; and
- reviewing and reporting to the Board concerning our corporate social responsibility and sustainability efforts, including the impact of environmental and social issues on our company.

*Science and technology committee.* Ms. Torrente, Dr. Carson, and Dr. Hubbard currently serve on the science and technology committee, which is chaired by Ms. Torrente. Dr. Hubbard replaced Dr. Shetty on the committee when Dr. Shetty did not stand for re-election to the Board at the Company's annual meeting of stockholders on June 8, 2023. The science and technology committee operates under a written charter, which is available on our website at [www.agiletherapeutics.com](http://www.agiletherapeutics.com). Our science and technology committee met two (2) times during the year ended December 31, 2023. The science and technology committee's responsibilities include:

- identifying and discussing new and emerging trends in pharmaceutical science, technology, pharmaceutical regulation and manufacturing, and, as necessary, reporting to the Board on such trends and the committee's deliberations;
- reviewing, evaluating and advising the Board regarding the quality, direction and competitiveness of our research and development and manufacturing programs;
- reviewing, evaluating and advising the Board regarding our progress in achieving our long-term strategic research and development goals and objectives; reviewing and making recommendations to the Board on our internal and external investments in science, technology and manufacturing. For any external investments in research and development (e.g., potential acquisitions, alliances, collaborations, equity investments, contracts and grants) that require approval by the Board, the committee provides the Board with its recommendation prior to any action by the Board unless time does not permit;
- regularly reviewing our pipeline of product candidates and clinical development performance;
- providing assistance to the compensation committee in setting any pipeline or development performance metric(s) under our incentive compensation programs and reviewing the performance results;
- evaluating its own performance annually and delivering a report to the Board setting forth the results of the evaluation;

- reviewing and reassessing the adequacy of its charter annually and recommending any proposed changes to the Board for its approval; and
- performing any other activities consistent with its charter, our amended and restated bylaws and governing law or regulation, as the committee or the Board deems necessary or appropriate.

In December 2020, the board established an ad hoc finance committee to act on its behalf on matters relating to potential transactions to raise capital and to review potential business development transactions. Ms. Barbari, Mr. Fischer and Dr. Hubbard serve on this committee, which is chaired by Ms. Barbari. The committee met one (1) time during the year ended December 31, 2023. Our Board may from time to time establish other committees.

### **Meetings of the Board of Directors**

The full Board met twelve (12) times during the year ended December 31, 2023. No director attended fewer than 75% of the total number of meetings of the Board and of any committees of the Board of which he or she was a member during our year ended December 31, 2023.

It is our policy that directors are invited and encouraged to attend our annual meetings of stockholders. We have scheduled our Annual Meeting on the same day as a regularly scheduled Board meeting in order to facilitate attendance by the members of our Board. All of our directors at the time of our 2023 Annual Meeting of Stockholders attended the 2023 Annual Meeting of Stockholders.

### **Board Oversight of Risk**

Risk is inherent with every business, and how well a business manages risk can ultimately determine its success. We face a number of risks, including risks relating to our operations, strategic direction and intellectual property as more fully discussed under “Risk Factors” in our Annual Report on Form 10-K. Management is responsible for the day-to-day management of risks we face, while our Board, as a whole and through its committees, has responsibility for the oversight of risk management. In its risk oversight role, our Board has the responsibility to satisfy itself that the risk management processes designed and implemented by management are adequate and functioning as designed

The role of the Board in overseeing the management of our risks is conducted primarily through committees of the Board, as disclosed in the descriptions of each of the committees above and in the charters of each of the committees. For example, our audit committee is responsible for overseeing the management of risks associated with our financial reporting, accounting and auditing matters, regulatory and legal compliance, and cyber-security; our compensation committee oversees major risks associated with our compensation policies and programs; and our nominating and governance committee oversees the management of risks associated with director independence, conflicts of interest, composition and organization of our Board and director succession planning. The full Board (or the appropriate Board committee in the case of risks that are under the purview of a particular committee) discusses with management our major risk exposures, their potential impact on Agile, and the steps we take to manage them. When a Board committee is responsible for evaluating and overseeing the management of a particular risk or risks, the chairperson of the relevant committee reports on the discussion to the full Board during the committee reports portion of the next Board meeting. This enables the Board and its committees to coordinate the risk oversight role, particularly with respect to risk interrelationships.

### **Stockholder Communications with the Board of Directors**

Stockholders wishing to communicate with the Board or with an individual member of the Board may do so by writing to the Board or to the particular member of the Board, care of the Corporate Secretary by mail to our principal executive offices at 500 College Road East, Suite 310 Princeton, New Jersey 08540, Attention: Corporate Secretary. The envelope should indicate that it contains a stockholder communication. All such stockholder communications will be forwarded to the director or directors to whom the communications are addressed.

## Information about our Executive Officers

Our executive officers are appointed by and serve at the discretion of the Board. Set forth below are the names, ages as of April 29, 2024, and certain biographical information regarding our executive officers.

Name	Age	Position
Al Altomari	65	Chairperson and Chief Executive Officer
Scott M. Coiante	57	Senior Vice President, Chief Financial Officer
Geoffrey P. Gilmore	58	Senior Vice President, Chief Administrative Officer
Robert G. Conway	67	Senior Vice President and Chief Corporate Planning & Supply Chain Officer
Paul Korner	58	Senior Vice President and Chief Medical Officer
Amy Welsh	53	Senior Vice President and Chief Commercial Officer

*Al Altomari.* Please see “Information about our Directors” above for biographical information regarding Mr. Altomari.

*Scott M. Coiante.* Mr. Coiante has been our Chief Financial Officer since August of 2023. He joined the Company from Aprea Therapeutics, Inc. where he served as the Chief Financial Officer from August 2019 until January 2023 and remained as an employee through March 31, 2023. Prior to joining Aprea Therapeutics, Inc., Mr. Coiante served as our Senior Vice President and Chief Financial Officer from 2010 to August 2019. From 2002 to 2010, Mr. Coiante was Vice President of Finance and Treasurer at Medarex, Inc., formerly a Nasdaq listed biotech company that was acquired in 2009 by Bristol Myers Squibb. From 1989 to 2002, Mr. Coiante held management positions of increasing responsibility at Ernst & Young LLP. Mr. Coiante received a B.S. in Accounting from Villanova University.

*Geoffrey P. Gilmore.* Mr. Gilmore has been our Senior Vice President and Chief Administrative Officer since November 2022. Prior to that, Mr. Gilmore served as our General Counsel since August 2014. From 2012 to April 2016, Mr. Gilmore was a principal of Life Sciences Advisory Services, providing consulting services to the pharmaceutical and life science industries. He served as Senior Vice President, General Counsel and Corporate Secretary of Amicus Therapeutics, Inc., a public bio-pharmaceutical company, from 2008 to 2012. Prior to joining Amicus, Mr. Gilmore spent 10 years at Bristol-Myers Squibb where he held roles of increasing responsibility in the legal department with the Commercial, Intellectual Property, and R&D legal groups, served in the Office of the Corporate Secretary and then reported to the General Counsel as Vice-President and Senior Counsel, Corporate Securities. Mr. Gilmore began his legal career in the business and finance groups at Philadelphia based law firms, Ballard Spahr LLP and Montgomery McCracken Walker & Rhoads LLP. Mr. Gilmore received his B.A. degree from Franklin and Marshall College and his J.D. from the University of Michigan Law School.

*Robert G. Conway.* Mr. Conway has served as our Senior Vice President and Chief Corporate Planning and Supply Chain Officer since November 2022. Prior to that, he served as our Senior Vice President and Chief Supply Chain Officer since January 2020, as our Senior Vice President, Enterprise Planning and Information Management from 2017 to 2020, as our Senior Vice President of Operations from 2014 to 2017 and as our Chief Development Officer and Vice President of Operations from 2004 to 2014. Mr. Conway has over thirty years of practice in U.S. and international operations with an extensive background in the medical device, pharmaceutical and consumer products industries. Mr. Conway has also previously served as Principal of R. G. Conway and Associates, an independent engineering and project management-consulting firm. Prior to consulting in 1997, Mr. Conway began his career in healthcare with Johnson & Johnson and later joined a Johnson & Johnson supported venture-backed medical device company operating as President and Chief Operating Officer. Mr. Conway holds a B.S. degree in Mechanical Engineering from New Jersey Institute of Technology.

*Paul Korner.* Dr. Korner has been our Chief Medical Officer since August 2020. He has served in various leadership positions of increasing responsibility at several global companies focused on female reproductive health, including Solvay Pharmaceuticals, Wyeth Research, Bayer, and Ferring Pharmaceuticals. Dr. Korner has led more than 50 clinical trials that include multiple engagements with the U.S. Food and Drug Administration, European Medicines



Agency, Pharmaceuticals and Medical Devices Agency in Japan, and Health Canada. Most recently Dr. Korner brought his clinical and development acumen to the gene therapy space as a Senior Vice President of Clinical Development & Medical Affairs at Axovant Gene Therapies, Ltd. He currently serves on the Laidlaw Venture Partners Scientific Advisory Board and the Board of Directors of Voltron Therapeutics as an Independent Director. Dr. Korner received his MD from the Stritch School of Medicine at Loyola University and also holds an MBA from the Michael J. Coles College of Business at Kennesaw State University.

*Amy Welsh.* Amy Welsh has been our Senior Vice President and Chief Commercial Officer since November 2022. Prior to that Ms. Welsh served as our Vice President, Marketing since May 2020. She brings over 25 years of industry marketing experience to Agile with a proven track record in product launch and lifecycle management. Prior to joining Agile, Ms. Welsh served for 3 years as the Vice President of Marketing at Antares Pharma Inc., a public specialty pharmaceutical company, where she oversaw the launch of its flagship brand XYOSTED, as well as the commercialization of products, strategic planning of developmental assets, as well as new M&A opportunities. Before Antares, she spent over eight years at AstraZeneca in brand management and marketing roles of increasing responsibility. Ms. Welsh also brings perspective and experience from her time working at a digital advertising agency dedicated to serving the life sciences industry. Ms. Welsh earned a dual B.A. degree in Marketing Communications and English Literature from LaSalle University.

## Item 11. Executive Compensation

### COMPENSATION DISCUSSION AND ANALYSIS

This Compensation Discussion and Analysis describes the compensation strategy, policies, programs and practices for the named executive officers identified in the Summary Compensation Table.

#### Compensation Philosophy and Programs

We are a “smaller reporting company” as defined in Rule 405 of the Securities Act of 1933, as amended (the “Securities Act”), and Item 10 of Regulation S-K, and in accordance with relevant SEC rules and guidance. We have elected, with respect to the disclosures required by Item 402 (Executive Compensation) of Regulation S-K, to comply with the disclosure requirements applicable to smaller reporting companies. Our intent with this overview is to enhance our stockholders’ understanding of our compensation philosophy and programs for our executive officers as well as the compensation committee’s role in the design and administration of these programs and as it relates to specific compensation decisions for our named executive officers.

Our executive compensation philosophy is centered around attracting and retaining talented executives who are essential for our continued growth and success and aligning the interests of these executives with those of our stockholders so that we can build long-term stockholder value. To achieve this objective, in addition to annual base salaries, our executive compensation program utilizes a combination of annual incentives through structured cash bonuses based on pre-defined goals as well as long-term incentives through equity-based compensation. On the whole, we follow a “market median” target compensation philosophy approach, reviewing each compensation component (base salary, target AIP and LTI awards) against the market median with flexibility to target an individual’s base and/or total compensation opportunity above or below the market median based on performance, critical skills and recognition for current and/or anticipated future contributions. In establishing overall executive compensation levels, our compensation committee may consider the following factors, including (i) the executive’s scope of responsibilities, (ii) the strategic importance of the executive’s role, (iii) relevant peer group data, (iv) attainment of individual and overall company performance objectives, (v) recruitment and/or retention concerns, and (vi) the results of the advisory vote of the stockholders on the “say-on-pay” proposal at the prior years’ annual meeting of the stockholders. A substantial portion of executive compensation is directly tied to the achievement of corporate performance objectives, and the contribution of these individuals to build a profitable business and stockholder value over time.

Our executive compensation program is administered by the compensation committee of our Board (the “Compensation Committee”), with guidance and input from our Chief Executive Officer and our independent compensation consultant, Pay Governance. The Compensation Committee oversees the governance, design and administration of our executive compensation programs and evaluates these programs against competitive practice, legal and regulatory developments and corporate governance trends. We are committed to continuing to incorporate leading design and governance practices into our compensation programs. The Compensation Committee, in addition to other activities mentioned above, establishes the new performance objectives for the upcoming fiscal year and approves merit, bonus and equity awards for the current year. The Compensation Committee solicits and considers evaluations and recommendations submitted by the Chief Executive Officer for the Compensation Committee’s review and approval. In the case of the Chief Executive Officer, the evaluation of his performance is conducted by the Compensation Committee in consultation with the Board, and the Compensation Committee approves any adjustments to his compensation as well as equity awards to be granted. The Compensation Committee obtains and considers input from Pay Governance, including benchmarking data discussed below. Mr. Altomari, our Chief Executive Officer, plays no role in determining his own salary, annual cash performance bonus or equity compensation.

#### *Our Peer Group and the Use of Peer Group Compensation Data*

Since 2016, the Compensation Committee has periodically engaged Pay Governance as its independent consultant to assist the Compensation Committee in evaluating its executive compensation program. The Compensation Committee has assessed the independence of Pay Governance, considering the factors required by Nasdaq and concluded that Pay Governance is independent from the Company and there are no conflicts of interest.

Each year the Compensation Committee has engaged Pay Governance to provide compensation market data, provide updates on executive compensation trends and regulatory development and provide recommendations to be used to establish compensation levels and plans for our executive officers for the following year. In doing so, Pay Governance develops a relevant peer group of companies (described below) in order to perform a thorough compensation review and analysis of our executive compensation levels and plans when compared to this group of peers, including base salary, annual cash bonus and long-term equity incentive awards.

In August 2023, at the recommendation of Pay Governance, the Compensation Committee approved modest changes to the peer group to align with our evolution as a commercial organization, and removed two companies that were either acquired, restructured, or had fallen outside the financial evaluation criteria, and added one company at similar commercial stage. In 2023 our peer group consisted of the following 19 companies:

AcelRx Pharmaceuticals	Femays	Spectrum Pharmaceuticals
Aytu BioPharma	Kala Pharmaceuticals	Sutro Biopharma
Aziyo Biologics	Lipocine Inc.	Trevena
Baudex Bio, Inc.	Marinus Pharmaceuticals	VYNE Therapeutics
Cidara Therapeutics Inc.	OptiNose Inc.	Zynerba Pharma
Dare Bioscience	Palatin Technologies	
Evoform Biosciences, Inc.	SCYNEXIS	

We believe that our selected peer group provides useful information to help us establish competitive compensation practices and levels of compensation that allow us to attract, retain and motivate a talented executive team and, at the same time, aligns the interests of our executives with those of our stockholders. We believe our executive compensation must be competitive within such peer groups, yet fully aligned with our current stage of development and our responsibilities to stockholders. The target goal for annual cash salary, annual cash bonus and long-term equity remains around or at the 50th percentile of our peer group.

In 2023, the Board and Compensation Committee did not award annual cash bonuses to our Named Executive Officers for the 2022 fiscal year given our need to preserve cash, though our corporate performance against our 2022 annual goals was approved at 70% of the target. In February 2024, management recommended to the Board that the Company forego performance bonuses for the fiscal year 2023 in order to preserve cash. As a result the Company reversed a bonus accrual of approximately \$2.1 million. The Board and Compensation Committee did award annual equity grants in the normal course in June 2023. No merit based salary adjustments were awarded to our Named Executive Officers in 2023 given our need to preserve cash, although Messrs. Altomari and Gilmore elected to take salary increases in the form of restricted stock unit (“RSU”) awards. The Company does not plan to award merit based salary adjustments for the Named Executive Officers in 2024.

**Summary Compensation Table**

The following table provides information concerning the compensation paid to our President and Chief Executive Officer, and our other two most highly compensated individuals, for the fiscal years ended December 31, 2023 and 2022. We refer to these individuals as our named executive officers.

Name and Principal Position	Year	Salary	Restricted Stock Unit Awards (2)	Option Awards (1)	All Other Compensation	Total
Al Altomari	2023	\$ 600,554	\$ 115,228	\$ 26,958	\$ 45,978 (3)	\$ 788,718
<i>Chairperson &amp; Chief Executive Officer</i>	2022	\$ 600,554	\$ —	\$ 196,396	\$ 43,842	\$ 840,792
Geoffrey P. Gilmore	2023	\$ 450,000	\$ 50,136	\$ 9,705	\$ 44,851 (4)	\$ 554,692
<i>Sr. VP, Chief Administrative Officer</i>	2022	\$ 429,492	\$ —	\$ 65,458	\$ 49,428	\$ 544,378
Paul Korner	2023	\$ 442,000	\$ 33,480	\$ 9,705	\$ 52,596 (5)	\$ 537,781
<i>Chief Medical Officer</i>	2022	\$ 442,000	\$ —	\$ 65,458	\$ 38,402	\$ 545,860
Scott M. Coiante	2023	\$ 161,250	\$ 42,000	\$ —	\$ 13,148 (6)	\$ 216,398
<i>Chief Financial Officer</i>	2022	\$ —	\$ —	\$ —	\$ —	\$ —

- (1) In accordance with SEC rules, this column reflects the aggregate grant date fair value of the option awards granted computed in accordance with Financial Accounting Standard Board Accounting Codification Topic 718 for stock-based compensation transactions (ASC 718). Assumptions used in the calculation of these amounts are included in Note 10 to the financial statements as of December 31, 2023. These amounts do not reflect the actual economic value that will be realized by the named executive officer upon the vesting of the stock options, the exercise of the stock options, or the sale of the common stock underlying such stock options.
- (2) Represents total grant date value of RSUs that were granted on June 28, 2023, for Messrs. Altomari and Gilmore and Dr. Korner, and on October 3, 2023, for Mr. Coiante, and is based on the closing price of Agile common stock on the grant date and the total number of restricted stock units granted. This amount does not reflect the actual economic value that will be realized by the named executive officer. 37,500 RSU awards for Mr. Altomari, 13,500 RSU awards for Mr. Gilmore, and 13,500 RSU awards for Dr. Korner are expected to vest 25% on each four-year anniversary. 8,963 RSU awards for Mr. Altomari, and 6,716 RSU awards for Mr. Gilmore are each expected to vest in one year, June 28, 2024 and were awarded in lieu of a cash increase in their base salaries. 20,000 RSU awards for Mr. Coiante are expected to vest 25% on each four-year anniversary of Mr. Coiante's start of employment date with the Company, August 16, 2024, and were awarded as an inducement grant to a new hire in connection with Mr. Coiante's joining the Company.
- (3) Represents \$29,112 for premiums paid by us for health and group life insurance, \$12,200 paid by us for safe harbor match and \$4,666 paid by us for life insurance.
- (4) Represents \$31,581 for premiums paid by us for health and group life insurance, \$12,200 paid by us for safe harbor match and \$1,070 paid by us for life insurance.
- (5) Represents \$39,589 for premiums paid by us for health and group life insurance, \$12,200 paid by us for safe harbor match and \$807 paid by us for life insurance.
- (6) Represents base salary and \$13,148 for premiums paid by us for health and group life insurance for time worked from September through December 2023. Mr. Coiante joined Agile Therapeutics on August 16, 2023, so no data is available for 2022.

## Narrative Explanation of Certain Aspects of the Summary Compensation Table

Pursuant to employment agreements entered into with us, each of our named executive officers is eligible to receive (i) a base salary and (ii) an annual performance bonus payable in cash, stock or a combination of both at the discretion of the compensation committee of the Board. The target amount of each named executive officer's annual performance bonus is a percentage of his or her base salary, as set forth in the table below, and the actual amount payable is based on the achievement of individual and corporate objectives.

On August 16, 2023, Mr. Coiante became our Senior Vice President, Chief Financial Officer ("CFO"). In connection with his appointment as CFO, Mr. Coiante entered into an employment agreement and was awarded a grant of an RSU for 20,000 shares of the Company's common stock vesting over four years. Pursuant to the terms of his employment agreement, Mr. Coiante will receive an initial annual base salary of \$430,000 and will be eligible to participate in the Company's benefit and compensation plans, including the Company's annual bonus plan and the 2023 Equity Incentive Compensation Plan. Mr. Coiante's target annual bonus is 45% of his base salary, which, for 2023, shall be pro-rated for Mr. Coiante's actual period of service in 2023.

### *Base Salary and Annual Performance Bonus*

The base salary and target annual performance bonus for each of our named executive officers for our fiscal year ended December 31, 2023, is listed in the table below:

Name	2023	2023 Target
	Base Salary	Performance Bonus
Al Altomari	\$ 600,554	60 %
Scott M. Coiante	\$ 430,000	45 %
Geoffrey P. Gilmore	\$ 450,000	45 %
Paul Korner	\$ 442,000	45 %

For 2022, the Compensation Committee, based on a recommendation from management, did not approve a merit-based increase in base salary for any officer in connection with our overall performance. The Compensation Committee had initially intended to award bonus payments for our named executive officers to reflect the commercial performance of Twirla, the management of our financial resources and progress on the Company's Phase 4 commitments in 2021 at 50% of each executive's target. However, given our need to preserve cash, the named executive officers were not granted these bonuses. In addition, the long-term equity incentives were reduced in value compared to the awards granted in 2021 because of the reduced number of shares available in the Company's incentive plan. Mr. Altomari's long-term equity incentive grants were reduced by 88%, Mr. Gilmore's grants were reduced by 89% and Dr. Korner's grants were reduced by 84% in 2022. In November 2022, Mr. Gilmore was promoted to Senior Vice President, Chief Administrative Officer and his salary was increased to \$450,000.

For 2023, the Compensation Committee, based on a recommendation from management, again did not approve a merit-based increase in base salary for any officer based on our continued need to preserve cash. Messrs. Altomari and Gilmore elected to take salary increases in the form of restricted stock unit ("RSU") awards and were granted RSUs for 8,963 shares and 6,716 shares respectively. Objectives for the named executive officers' target bonuses for our fiscal year ended December 31, 2022 included three general categories: (1) the commercial performance of Twirla, as measured by net revenue, weighted at 50% of the total bonus potential; (2) management of our financial position for the 2022 fiscal year, as measured by our pre-tax earnings and cash position, collectively weighted at 40% of the total bonus potential; and (3) activities related to evaluating its pipeline and implementing the post approval commitments to the FDA in connection with the FDA's approval of Twirla, and business development activity either through acquisition of additional product or similar transaction, both collectively weighted at 10% of the total bonus potential.

Objectives for the 2022 named executive officer target bonuses were deemed to be achieved at 70%, which at the discretion of the Compensation Committee reflected that we had (i) not met our net revenue target, (ii) partially achieved our goals to raise capital but had successfully managed our expenses, (iii) met the objectives for evaluating our pipeline and fully met the timelines for our obligations to the FDA, and (iv) reviewed and identified multiple business

development candidates throughout the course of the year. The Compensation Committee, based on a recommendation from management did not approve bonuses for our named executive officers in a continued effort to conserve cash.

For fiscal year ended December 31, 2023, the Compensation Committee had established the following goals which must be achieved in order for the named executive officers to fully realize their potential annual cash bonus targets:

- *Twirla Growth*: Achieving growth of Twirla net revenue as measured by established targets;
- *Financial Management*: Reducing our loss and financing the Company's operations through 2023 as measured by targets for pre-tax earnings and cash; and
- *Building Agile*: Pursuing business development opportunities to grow our business and meet our Phase 4 commitments to the U.S. Food and Drug Administration for 2023.

In light of the Company's continuing cash constraints, management recommended to the Board not to award bonuses to the named executive officers for the Company's performance in 2023. The Company has no plans to make any merit based salary adjustments to the salaries of the named executive officers in 2024 in a continuous effort to conserve cash.

### ***Equity Compensation***

We have historically offered stock options as the primary long-term incentive vehicle to our employees, including our named executive officers, as the long-term incentive component of our compensation program. Stock options allow employees to purchase shares of our common stock at a price per share equal to the fair market value of our common stock on the date of grant and may or may not be intended to qualify as "incentive stock options" for U.S. federal income tax purposes. We typically grant stock options to new hires upon their commencing employment with us. Awards to newly hired employees generally vest with respect to 25% of the total number of option shares on the first anniversary of the grant date and in equal monthly installments over the following 36 months.

As part of an annual compensation evaluation of our named executive officers at the beginning of each year, the compensation committee of the Board considers granting stock options and other long-term incentive vehicles to our named executive officers based on such executive's individual performance for the preceding year and as an incentive for future performance. Stock options are granted under our 2023 Equity Incentive Compensation Plan, or the 2023 Plan, and generally vest with respect to 25% of the total number of option shares on the first anniversary of the grant date and in equal monthly installments over the following 36 months. RSUs can also be granted under the 2023 Plan, and generally vest with respect to 25% of the total number of restricted stock units on the first four anniversaries of the grant date.

Effective January 19, 2022, the Compensation Committee granted each of Mr. Altomari, Mr. Gilmore, and Dr. Korner options to purchase shares of our common stock in the amount of 337, 112, and 112 (respectively), each at an exercise price of \$684 per share, which was the closing price of our common stock on January 19, 2022. The Compensation Committee made its decision to grant stock options to our named executive officers based on (i) their individual performance for 2021 and contribution to the Company's performance against its corporate goals in 2021 and (ii) to incentivize future performance.

On November 9, 2022, the Compensation Committee approved an off-cycle grant for all active employees, including our named executive officers. The Compensation Committee granted each of Mr. Altomari, Mr. Gilmore, and Dr. Korner options to purchase shares of our common stock in the amount of 600, 200 and 200 (respectively), each at an exercise price of \$10.22 per share, which was the closing price of our common stock on November 9, 2022.

On June 28, 2023, following the Company's Annual Meeting, the Compensation Committee approved an annual grant for all active employees including our named executive officers. The Compensation Committee granted each of Mr. Altomari, Mr. Gilmore, and Dr. Korner a mix of options and RSUs. The options to purchase shares of our

common stock were in the amount of 12,500, 4,500 and 4,500 (respectively) at an exercise price of \$2.48 per share, which was the closing price of our common stock on June 28, 2023. The RSUs were granted under the 2023 Plan equivalent to shares of the Company's common stock in the amount of 37,500, 13,500 and 13,500 (respectively). At the same time, Messrs. Altomari and Gilmore were awarded RSUs in the amount of 8,963 shares and 6,716 shares, respectively, in lieu of cash salary increases.

On October 3, 2023, Scott Coiante was granted an equity award ("Inducement Grant") in the form of an RSU for 20,000 shares of the Company's common stock ("Shares"). The Inducement Grant is governed by the terms of an individual award agreement, and the 2023 Equity Incentive Compensation Plan. The Inducement Grant will vest on a four-year vesting schedule, with 25% of the Shares subject to the option vesting on the first four anniversaries of the date that Mr. Coiante commenced his employment with Agile, subject to Mr. Coiante's continued employment with the Company on each vesting date and subject to accelerated vesting in the event of a change in control.

As described under "Outstanding Equity Awards as of December 31, 2023" below, all outstanding and unvested equity awards held by our named executive officers are subject to accelerated vesting in the event we experience a change in control and the equity awards are not assumed by the successor corporation, or at the discretion of the Board. In addition, all outstanding equity awards held by our named executive officers are subject to accelerated vesting in the event of a termination without cause or resignation for good reason that occurs in connection with a change in control, as described under "Severance and Change in Control Benefits" below.

**Outstanding Equity Awards as of December 31, 2023**

The following table sets forth information regarding each outstanding equity award held by each of our named executive officers as of December 31, 2023. The number of shares subject to each award and, where applicable, the exercise price per share, reflect all changes as a result of our capitalization adjustments.

Name	Grant Date(1)	Option Awards				Stock Awards	
		Number of Securities Underlying Unexercised Options Exercisable (#)	Number of Securities Underlying Unexercised Options (#)	Option Exercise Price (\$)(2)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested (\$)
Al Altomari	6/24/2014	36	—	\$ 21,500.00	6/23/2024		
	2/19/2015	45	—	\$ 18,900.00	2/18/2025		
	2/19/2015	45	—	\$ 21,500.00	2/18/2025		
	2/8/2016	49	—	\$ 11,860.00	2/7/2026		
	1/25/2017	119	—	\$ 4,520.00	1/24/2027		
	1/24/2018	127	—	\$ 6,920.00	1/23/2028		
	6/20/2018	75	—	\$ 1,160.00	6/19/2028		
	1/29/2019	270	—	\$ 1,680.00	1/28/2029		
	1/29/2019	77	—	\$ 5,000.00	1/28/2029		
	1/22/2020	408	8	\$ 5,660.00	1/21/2030		
	1/27/2021	255	90	\$ 5,640.00	1/26/2031		
	1/19/2022	163	174	\$ 684.00	1/18/2032		
	11/9/2022	164	435	\$ 10.22	11/8/2032		
	6/28/2023	—	12,500	\$ 2.48	6/27/2033		
	6/28/2023					46,463	\$ 90,603
Scott M. Coiante	10/3/2023					20,000	\$ 39,000
Geoffrey P. Gilmore	8/1/2014	15	—	\$ 12,000.00	7/31/2024		
	2/19/2015	9	—	\$ 18,900.00	2/18/2025		
	2/8/2016	14	—	\$ 11,860.00	2/7/2026		
	4/18/2016	14	—	\$ 12,920.00	4/17/2026		
	1/25/2017	69	—	\$ 4,520.00	1/24/2027		
	1/24/2018	53	—	\$ 6,920.00	1/23/2028		
	6/20/2018	75	—	\$ 1,160.00	6/19/2028		
	1/29/2019	85	—	\$ 1,680.00	1/28/2029		
	1/29/2019	19	—	\$ 5,000.00	1/28/2029		
	7/3/2019	75	—	\$ 2,960.00	7/2/2029		
	1/22/2020	155	3	\$ 5,660.00	1/21/2030		
	1/27/2021	101	28	\$ 5,640.00	1/26/2031		
	1/19/2022	59	53	\$ 684.00	1/18/2032		
	11/9/2022	56	143	\$ 10.22	11/8/2032		
	6/28/2023	—	4,500	\$ 2.48	6/27/2033		
6/28/2023					20,216	\$ 39,421	
Paul Korner	8/17/2020	67	7	\$ 5,740.00	8/16/2030		
	1/27/2021	68	17	\$ 5,640.00	1/26/2031		
	1/19/2022	59	53	\$ 684.00	1/18/2032		
	11/9/2022	56	143	\$ 10.22	11/8/2032		
	6/28/2023	—	4,500	\$ 2.48	6/27/2033		
6/28/2023					13,500	\$ 26,325	



- (1) Each of the option awards vest with respect to 25% of the shares one year following the date of grant and with respect to 1/36<sup>th</sup> of the remaining shares on each monthly anniversary thereafter over the following three years, subject to the executive's continuous service with us through the vesting date.
- (2) All of the option awards listed in the table above were granted with a per share exercise price equal to or above the fair market value of our common stock on the date of grant.
- (3) Market value is based on the closing price of \$1.95 on December 29, 2023, the last trading day of 2023.

#### **Severance and Change in Control Benefits**

Each of our named executive officers is eligible to receive certain benefits if his or her employment is terminated under certain circumstances, as described under "Severance and Change in Control Benefits" below.

##### *Al Altomari*

We entered into an employment agreement with Mr. Altomari on October 11, 2010, which was amended on December 18, 2012, April 12, 2016, and amended and restated on August 14, 2020, and November 22, 2022. Pursuant to the terms of the agreement, Mr. Altomari is entitled to receive certain benefits in the event his employment is terminated.

##### *Payments Upon Termination Absent a Change in Control.*

If Mr. Altomari terminates his employment for good reason or if we terminate his employment without reasonable cause (other than due to death or disability), in either case in the absence of a change in control, he is entitled to receive the following severance benefits: (i) base salary continuation for a period of 12 months, and (ii) reimbursement of Mr. Altomari's health insurance premiums for a period of 12 months following the date of his termination or until Mr. Altomari obtains other employment, whichever is sooner. In the event of a change in control following his termination, any base salary continuation payments still due to Mr. Altomari shall be paid in full upon the change in control.

In the event Mr. Altomari's employment terminates as a result of his disability, he will be entitled to receive (i) base salary continuation for a period of 12 months following the date of his termination, and (ii) reimbursement of Mr. Altomari's health insurance premiums for a period of 12 months following the date of his termination due to his disability or until Mr. Altomari obtains other employment, whichever is sooner.

##### *Payments Upon Termination in Connection with a Change in Control.*

If Mr. Altomari terminates his employment for good reason or if we terminate his employment without reasonable cause (other than due to death or disability), in either case upon or within 12 months following a change in control, he is entitled to receive the following severance benefits: (i) a lump-sum cash payment in the amount of 2.0 times his then annual rate of base salary, (ii) a lump sum cash payment equal to Mr. Altomari's target annual bonus for the year in which his termination occurs, (iii) reimbursement of Mr. Altomari's health insurance premiums for a period of 24 months following the date of his termination or until Mr. Altomari obtains other employment, whichever is sooner and (iv) each outstanding equity award shall automatically vest in full.

Notwithstanding the foregoing, any payments and benefits that would otherwise be paid to Mr. Altomari (whether or not under his employment agreement) in connection with a change in control of the Company will be reduced to the extent necessary to ensure that he is not subject to any excise tax under Internal Revenue Code Section 4999 in connection with any change in control of the Company or his subsequent termination of employment. However, such reduction will not be made if Mr. Altomari would be better off (on an after-tax basis) receiving all payments and benefits and paying all excise and income taxes under Internal Revenue Code Section 4999.

Under Mr. Altomari's employment agreement, the terms below are generally defined as follows:

"Change in Control" means (i) a merger or consolidation in which more than 50% of the voting securities of the Company are transferred and the composition of the board after such transaction constitutes less than 50% of the members of the board prior to the transaction; (ii) any acquisition, directly or indirectly, of beneficial ownership of more than 50% of the total combined voting power of the Company, other than in a capital-raising transaction; (iii) the sale, transfer, exclusive worldwide license or other disposition of all or substantially all of the assets of the Company; or (iv) the consummation of a complete dissolution or liquidation of the Company.

"Good reason" means Mr. Altomari's resignation following notice to the Company of, and failure by the Company to cure, the occurrence of any of the following: (i) an office relocation of more than 50 miles; (ii) failure by the Company to comply with any material term of the employment agreement; or (iii) the demotion to a lesser position or substantial diminution of authority, duties or responsibilities, except for a reduction in title, position, responsibilities or duties solely by virtue of the Company being acquired and made part of, or operated as a subsidiary of, a larger company, so long as the new duties and responsibilities are reasonably commensurate with Mr. Altomari's experience.

"Reasonable cause" means (i) an act or omission that constitutes dishonesty, disloyalty, fraud, deceit, gross negligence, willful misconduct or recklessness, including, but not limited to Mr. Altomari's willful violation of the Company's bylaws or code of conduct, and that is directly or indirectly materially detrimental to the Company's best interest; (ii) intentional failure to perform any lawful duties assigned by the board after receiving notice and an opportunity to cure; (iii) the commission of any act that constitutes a felony; or (iv) any material breach of certain sections of the employment agreement.

The payment of any severance compensation described above is subject to Mr. Altomari's execution and non-revocation of a general release of claims against the Company, and his compliance with non-competition and non-solicitation restrictive covenants for a 24-month period after his termination without cause or for good reason upon or within 12 months following a change of control and a 12-month period following his termination date in all other cases.

*Geoffrey P. Gilmore*

We entered into an employment agreement with Mr. Gilmore on April 12, 2016, which was amended on July 3, 2019, August 14, 2020, and November 1, 2022. Pursuant to the terms of the agreement, as amended, Mr. Gilmore is entitled to receive certain benefits in the event his employment is terminated.

*Payments Upon Termination Absent a Change in Control.*

If Mr. Gilmore terminates his employment for good reason or if we terminate his employment without reasonable cause (other than due to death or disability), in either case in the absence of a change in control, he is entitled to receive the following severance benefits: (i) base salary continuation for a period of 12 months, and (ii) reimbursement of Mr. Gilmore's health insurance premiums for a period of 12 months following the date of his termination or until he obtains other employment, whichever is sooner. In the event of a change in control following his termination, any base salary continuation payments still due to Mr. Gilmore shall be paid in full upon the change in control.

In the event Mr. Gilmore's employment terminates as a result of his disability, he will be entitled to receive (i) base salary continuation for a period of 12 months following the date of his termination, and (ii) reimbursement of his health insurance premiums for a period of 12 months following the date of his termination due to his disability or until he obtains employment, whichever is sooner.

*Payments Upon Termination in Connection with a Change in Control.*

If Mr. Gilmore terminates his employment for good reason or if we terminate his employment without reasonable cause (other than due to death or disability), in either case upon or within 12 months following a change in control, he is entitled to receive the following severance benefits: (i) a lump-sum cash payment in the amount of 1.5 times his then annual rate of base salary, (ii) a lump sum cash payment equal to his target annual bonus for the year in which his termination occurs, (iii) reimbursement of his health insurance premiums for a period of 18 months following the date of his termination or until he obtains other employment, whichever is sooner and (iv) each outstanding equity award shall automatically vest in full.

Notwithstanding the foregoing, any payments and benefits that would otherwise be paid to Mr. Gilmore (whether or not under his employment agreement) in connection with a change in control of the Company will be reduced to the extent necessary to ensure that he is not subject to any excise tax under Internal Revenue Code Section 4999 in connection with any change in control of the Company or his subsequent termination of employment. However, such reduction will not be made if Mr. Gilmore would be better off (on an after-tax basis) receiving all payments and benefits and paying all excise and income taxes under Internal Revenue Code Section 4999.

Under Mr. Gilmore's employment agreement, the terms below are generally defined as follows:

"Change in Control" means (i) a merger or consolidation in which more than 50% of the voting securities of the Company are transferred and the composition of the board after such transaction constitutes less than 50% of the members of the board prior to the transaction; (ii) any acquisition, directly or indirectly, of beneficial ownership of more than 50% of the total combined voting power of the Company, other than in a capital-raising transaction; (iii) the sale, transfer, exclusive worldwide license or other disposition of all or substantially all of the assets of the Company; or (iv) the consummation of a complete dissolution or liquidation of the Company.

"Good reason" means Mr. Gilmore's resignation following notice to the Company of, and failure by the Company to cure, the occurrence of any of the following: (i) an office relocation of more than 50 miles; (ii) failure by the Company to comply with any material term of the employment agreement; or (iii) the demotion to a lesser position or substantial diminution of authority, duties or responsibilities, except for a reduction in title, position, responsibilities or duties solely by virtue of the Company being acquired and made part of, or operated as a subsidiary of, a larger company, so long as the new duties and responsibilities are reasonably commensurate with Mr. Gilmore's experience.

"Reasonable cause" means (i) an act or omission that constitutes dishonesty, disloyalty, fraud, deceit, gross negligence, willful misconduct or recklessness, including, but not limited to Mr. Gilmore's willful violation of the Company's bylaws or code of conduct, and that is directly or indirectly materially detrimental to the Company's best interest; (ii) intentional failure to perform any lawful duties assigned by the Board after receiving notice and an opportunity to cure; (iii) the commission of any act that constitutes a felony; or (iv) any material breach of certain sections of the employment agreement.

The payment of any severance compensation described above is subject to Mr. Gilmore's execution and non-revocation of a general release of claims against the Company, and his compliance with non-competition and non-solicitation restrictive covenants for an 12-month period after his termination without cause or for good reason upon or within 18 months following a change of control.

*Paul Korner, M.D.*

We entered into an employment agreement with Dr. Korner on August 17, 2020, which was amended on November 1, 2022. Pursuant to the terms of the agreement, Dr. Korner is entitled to receive certain benefits in the event his employment is terminated.

*Payments Upon Termination Absent a Change in Control.*

If Dr. Korner terminates his employment for good reason or if we terminate his employment without reasonable cause (other than due to death or disability), in either case in the absence of a change in control, he is entitled to receive the following severance benefits: (i) base salary continuation for a period of 12 months, and (ii) reimbursement of his health insurance premiums for a period of 12 months following the date of his termination or until he obtains other employment, whichever is sooner. In the event of a change in control following his termination, any base salary continuation payments still due to Dr. Korner shall be paid in full upon the change in control.

In the event Dr. Korner's employment terminates as a result of his disability, he will be entitled to receive (i) base salary continuation for a period of 12 months following the date of his termination, and (ii) reimbursement of his health insurance premiums for a period of 12 months following the date of his termination due to his disability or until he obtains employment, whichever is sooner.

*Payments Upon Termination in Connection with a Change in Control.*

If Dr. Korner terminates his employment for good reason or if we terminate his employment without reasonable cause (other than due to death or disability), in either case upon or within 12 months following a change in control, he is entitled to receive the following severance benefits: (i) a lump-sum cash payment in the amount of 1.5 times his then annual rate of base salary, (ii) a lump sum cash payment equal to his target annual bonus for the year in which his termination occurs, (iii) reimbursement of his health insurance premiums for a period of 18 months following the date of his termination or until he obtains other employment, whichever is sooner and (iv) each outstanding equity award shall automatically vest in full.

Notwithstanding the foregoing, any payments and benefits that would otherwise be paid to Dr. Korner (whether or not under his employment agreement) in connection with a change in control of the Company will be reduced to the extent necessary to ensure that he is not subject to any excise tax under Internal Revenue Code Section 4999 in connection with any change in control of the Company or his subsequent termination of employment. However, such reduction will not be made if Dr. Korner would be better off (on an after-tax basis) receiving all payments and benefits and paying all excise and income taxes under Internal Revenue Code Section 4999.

Under Dr. Korner's employment agreement, the terms below are generally defined as follows:

"Change in Control" means (i) a merger or consolidation in which more than 50% of the voting securities of the Company are transferred and the composition of the board after such transaction constitutes less than 50% of the members of the board prior to the transaction; (ii) any acquisition, directly or indirectly, of beneficial ownership of more than 50% of the total combined voting power of the Company, other than in a capital-raising transaction; (iii) the sale, transfer, exclusive worldwide license or other disposition of all or substantially all of the assets of the Company; or (iv) the consummation of a complete dissolution or liquidation of the Company.

"Good reason" means Dr. Korner's resignation following notice to the Company of, and failure by the Company to cure, the occurrence of any of the following: (i) an office relocation of more than 50 miles; (ii) failure by the Company to comply with any material term of the employment agreement; or (iii) the demotion to a lesser position or substantial diminution of authority, duties or responsibilities, except for a reduction in title, position, responsibilities or duties solely by virtue of the Company being acquired and made part of, or operated as a subsidiary of, a larger company, so long as the new duties and responsibilities are reasonably commensurate with Dr. Korner's experience.

"Reasonable cause" means (i) an act or omission that constitutes dishonesty, disloyalty, fraud, deceit, gross negligence, willful misconduct or recklessness, including, but not limited to Dr. Korner's willful violation of the Company's bylaws or code of conduct, and that is directly or indirectly materially detrimental to the Company's best interest; (ii) intentional failure to perform any lawful duties assigned by the board after

receiving notice and an opportunity to cure; (iii) the commission of any act that constitutes a felony; or (iv) any material breach of certain sections of the employment agreement.

The payment of any severance compensation described above is subject to Dr. Korner's execution and non-revocation of a general release of claims against the Company, and his compliance with non-competition and non-solicitation restrictive covenants for a 12-month period after his termination without cause or for good reason upon or within 18 months following a change of control.

*Scott M. Coiante.*

We entered into an employment agreement with Mr. Coiante on August 16, 2023. Pursuant to the terms of the agreement, Mr. Coiante is entitled to receive certain benefits in the event his employment is terminated.

*Payments Upon Termination Absent a Change in Control.*

If Mr. Coiante terminates his employment for good reason or if we terminate his employment without reasonable cause (other than due to death or disability), in either case in the absence of a change in control, he is entitled to receive the following severance benefits: (i) base salary continuation for a period of 12 months, and (ii) reimbursement of his health insurance premiums for a period of 12 months following the date of his termination or until he obtains other employment, whichever is sooner. In the event of a change in control following his termination, any base salary continuation payments still due to Mr. Coiante shall be paid in full upon the change in control.

In the event Mr. Coiante's employment terminates as a result of his disability, he will be entitled to receive (i) base salary continuation for a period of 12 months following the date of his termination, and (ii) reimbursement of his health insurance premiums for a period of 12 months following the date of his termination due to his disability or until he obtains employment, whichever is sooner.

*Payments Upon Termination in Connection with a Change in Control.*

If Mr. Coiante terminates his employment for good reason or if we terminate his employment without reasonable cause (other than due to death or disability), in either case upon or within 12 months following a change in control, he is entitled to receive the following severance benefits: (i) a lump-sum cash payment in the amount of 1.5 times his then annual rate of base salary, (ii) a lump sum cash payment equal to his target annual bonus for the year in which his termination occurs, (iii) reimbursement of his health insurance premiums for a period of 18 months following the date of his termination or until he obtains other employment, whichever is sooner and (iv) each outstanding equity award shall automatically vest in full.

Notwithstanding the foregoing, any payments and benefits that would otherwise be paid to Mr. Coiante (whether or not under his employment agreement) in connection with a change in control of the Company will be reduced to the extent necessary to ensure that he is not subject to any excise tax under Internal Revenue Code Section 4999 in connection with any change in control of the Company or his subsequent termination of employment. However, such reduction will not be made if Mr. Coiante would be better off (on an after-tax basis) receiving all payments and benefits and paying all excise and income taxes under Internal Revenue Code Section 4999.

Under Mr. Coiante's employment agreement, the terms below are generally defined as follows:

"Change in Control" means (i) a merger or consolidation in which more than 50% of the voting securities of the Company are transferred and the composition of the board after such transaction constitutes less than 50% of the members of the board prior to the transaction; (ii) any acquisition, directly or indirectly, of beneficial ownership of more than 50% of the total combined voting power of the Company, other than in a capital-raising transaction; (iii) the sale, transfer, exclusive worldwide license or other disposition of all or substantially all of the assets of the Company; or (iv) the consummation of a complete dissolution or liquidation of the Company.

“Good reason” means Mr. Coiante’s resignation following notice to the Company of, and failure by the Company to cure, the occurrence of any of the following: (i) an office relocation of more than 50 miles; (ii) failure by the Company to comply with any material term of the employment agreement; or (iii) the demotion to a lesser position or substantial diminution of authority, duties or responsibilities, except for a reduction in title, position, responsibilities or duties solely by virtue of the Company being acquired and made part of, or operated as a subsidiary of, a larger company, so long as the new duties and responsibilities are reasonably commensurate with Mr. Coiante’s experience.

“Reasonable cause” means (i) an act or omission that constitutes dishonesty, disloyalty, fraud, deceit, gross negligence, willful misconduct or recklessness, including, but not limited to Mr. Coiante’s willful violation of the Company’s bylaws or code of conduct, and that is directly or indirectly materially detrimental to the Company’s best interest; (ii) intentional failure to perform any lawful duties assigned by the board after receiving notice and an opportunity to cure; (iii) the commission of any act that constitutes a felony; or (iv) any material breach of certain sections of the employment agreement.

The payment of any severance compensation described above is subject to Mr. Coiante’s execution and non-revocation of a general release of claims against the Company, and his compliance with non-competition and non-solicitation restrictive covenants for a 12-month period after his termination without cause or for good reason upon or within 18 months following a change of control.

### **Employee Benefits and Perquisites**

We also provide group life insurance, health, vision, and dental care insurance to all employees, including our named executive officers. These benefits do not discriminate in scope, terms, or operation in favor of the named executive officers. All such benefits terminate at the time each individual is no longer employed with us or as otherwise provided in the applicable employment agreement. All our named executive officers are eligible to participate in all of our employee benefit plans, in each case on the same basis as other employees. We maintain a 401(k) defined contribution plan, which is our primary retirement benefit for employees, including executives. We make a safe-harbor contribution of 100% of the first 3% of an employee’s elected salary deferral, plus 50% of the next 2% of salary deferral subject to Internal Revenue Service limitations. Although permitted under the plan, we have not matched employee contributions to the 401(k) plan.

We provide a life insurance benefit for our named executive officers in an amount equal to up to twice the named executive officer’s base salary and target bonus capped at \$1,000,000.

We do not generally provide our named executive officers with perquisites or other personal benefits (other than severance benefits, and the life insurance benefit, as described above).

### **Director Compensation**

During our fiscal year ended December 31, 2023, our non-employee directors who served on our Board were entitled to receive cash fees and were granted restricted stock units (RSUs) and options to purchase shares of our common stock for their service. A non-employee director is a director who is not employed by us and who does not receive compensation from us (other than for services as a director) or has a business relationship with us that would require disclosure under certain SEC rules. Due to our cash constraints, we paid the directors their cash fees for the first quarter of 2023 but did not pay the directors their fees for the rest of 2023. Mr. Altomari, our Chief Executive Officer

and Chairperson of our Board, did not receive any compensation from us during our fiscal year ended December 31, 2023 for his service as a director and is not included in the table below.

<u>Name</u>	<u>Fees Earned or Paid in Cash (4)</u>	<u>Option Awards (1)(2)</u>	<u>Restricted Stock Awards (1)(2)</u>	<u>Total</u>
Sharon Barbari	\$ 77,500	\$ 3,344	\$ 3,345	\$ 84,189
Sandra Carson, M.D., FACOg	\$ 55,000	\$ 3,344	\$ 3,345	\$ 61,689
Seth H.Z. Fischer	\$ 95,000	\$ 3,344	\$ 3,345	\$ 101,689
John Hubbard, Ph.D.	\$ 65,000	\$ 3,344	\$ 3,345	\$ 71,689
Ajit S. Shetty, Ph.D. (3)	\$ 14,375	\$ —	\$ —	\$ 14,375
Josephine Torrente	\$ 55,000	\$ 3,344	\$ 3,345	\$ 61,689

- (1) In accordance with SEC rules, this column reflects the aggregate grant date fair value of the awards granted computed in accordance with Financial Accounting Standard Board Accounting Codification Topic 718 for stock-based compensation transactions (ASC 718). Assumptions used in the calculation of these amounts are included in Note 10 to the financial statements as of December 31, 2023. These amounts do not reflect the actual economic value that will be realized by the director upon the vesting of the stock options, the exercise of the stock options, or the sale of the common stock underlying such stock options.
- (2) As of December 31, 2023, our non-employee directors held the following aggregate number of shares under outstanding stock options (representing unexercised option awards—both exercisable and unexercisable) and unvested restricted stock unit awards:

<u>Name</u>	<u>Aggregate Number of Shares Underlying Option Awards</u>	<u>Aggregate Number of Shares Underlying RSU Awards</u>
Sharon Barbari	1,117	935
Sandra Carson, M.D., FACOg	1,117	935
Seth H.Z. Fischer	1,185	935
John Hubbard, Ph.D.	1,199	935
Ajit S. Shetty, Ph.D. (3)	127	—
Josephine Torrente	1,129	948

- (3) The compensation provided for Mr. Shetty represents payment until June 8, 2023, when he did not stand for re-election to the Board at the Company's annual meeting of stockholders.
- (4) The amounts represent the fees earned by Board members in 2023; however, in an effort to preserve cash, the Company has only paid a portion of the fees for 2023 at this time.

***Non-Employee Director Compensation***

During 2023, each non-employee member of our Board is entitled to receive the following cash compensation for board services, as applicable:

- \$45,000 per year for service as a director;
- \$25,000 per year for service as lead independent director;
- \$20,000 per year for service as chairperson of the audit committee;
- \$15,000 per year for service as chairperson of the compensation committee;
- \$12,500 per year for service as chairperson of the finance committee;
- \$10,000 per year for service as chairperson of the nominating and corporate governance committee;

- \$12,500 per year for service as chairperson of the science and technology committee; and
- \$5,000 per year for service as a member on each committee, except each member of the compensation committee is entitled to receive \$7,500 per year for service in that role, and each member of the audit committee is entitled to receive \$10,000 per year for service in that role

Non-employee members of our Board receive automatic grants of equity awards under our 2023 Equity Incentive Compensation Plan (the “2023 Plan”). Each non-employee director joining our Board will automatically be granted equity awards totaling \$150,000 in value split equally between a non-statutory stock option to purchase shares of common stock with an exercise price equal to the fair market value of our common stock on the grant date and a restricted stock unit, or RSU. The shares subject to each initial option grant and RSU will vest in three successive equal annual installments over the 3-year period measured from the date of the non-employee director’s election to our Board, subject to the non-employee director’s continued board service through each vesting date and provided that the director attends at least 75% of the board meetings held during each respective year of board service.

In addition, on the date of each annual meeting of our stockholders, each non-employee director will automatically be granted equity awards totaling \$75,000 in value split equally between a non-statutory stock option to purchase shares of our common stock on that date with an exercise price equal to the fair market value of our common stock on the grant date and an RSU. In 2023, because of the limited number of shares of common stock available for issuance pursuant to the 2023 Plan, each non-employee director received equity awards totaling approximately \$6,690 each, which was evenly split into (i) a stock option to purchase 1,065 shares of common stock, which shares will vest on the first anniversary of the grant date, subject to the non-employee director’s continued board service through such date and provided that the non-employee director attends at least 75% of the board meetings held during such year of board service, and (ii) 935 RSUs, which will vest on the first anniversary of the grant date, subject to the non-employee director’s continued board service through such date and provided that the non-employee director attends at least 75% of the board meetings held during such year of board service. The decision to establish a value of equity awards and to equally split the awards between stock option shares and RSUs was based on a review of director equity compensation by our Board that included participation by the Compensation Committee’s independent compensation advisor, Pay Governance. In making this determination, our Board considered our business plan, our stock price and potential dilution to stockholders, and the need to adequately compensate our directors for their service.

The shares subject to each option grant or RSU under the director compensation policy will immediately vest upon (i) an acquisition of the Company by merger or asset sale, (ii) the successful completion of a tender offer for more than 50% of our outstanding voting stock or (iii) a change in the majority of our Board effected through one or more proxy contests for board membership, or a Change in Control. All automatic director options have a maximum term of ten years.

We will also continue to reimburse our non-employee directors for their reasonable out-of-pocket expenses incurred in attending board and committee meetings.

#### **Limitation of Liability and Indemnification Arrangements**

As permitted by the Delaware General Corporation Law (the “DGCL”), we have adopted provisions in our amended and restated certificate of incorporation and amended and restated by-laws, as amended, that limit or eliminate the personal liability of our directors. Consequently, a director will not be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director, except for liability for:

- any breach of the director’s duty of loyalty to us or our stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- any unlawful payments related to dividends or unlawful stock repurchases, redemptions or other distributions; or



- any transaction from which the director derived an improper personal benefit.

These limitations of liability do not alter director liability under the federal securities laws and do not affect the availability of equitable remedies such as an injunction or rescission.

In addition, our amended and restated by-laws provide that we will:

- indemnify our directors, officers and, in the discretion of our Board, certain employees to the fullest extent permitted by the DGCL; and
- advance expenses, including attorneys' fees, to our directors and, in the discretion of our Board, to our officers and certain employees, in connection with legal proceedings, subject to limited exceptions.

We have entered into separate indemnification agreements with our directors and executive officers. These agreements, among other things, provide for indemnification of our directors and executive officers for certain expenses, judgments, fines and settlement amounts, among others, incurred by such persons in any action or proceeding arising out of such person's services as a director or executive officer in any capacity with respect to any employee benefit plan or as a director, partner, trustee or agent of another entity at our request. We believe that these indemnification agreements, along with the above-referenced provisions of our amended and restated certificate of incorporation and amended and restated bylaws, are necessary to attract and retain qualified persons as directors and executive officers.

We also maintain general liability insurance to provide insurance coverage to our directors and officers for losses arising out of claims based on acts or omissions in their capacities as directors or officers, including liabilities under the Securities Act of 1933, as amended, or the Securities Act. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, or persons controlling the registrant pursuant to the foregoing provisions, we have been informed that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

These provisions may discourage stockholders from bringing a lawsuit against our directors and officers in the future for any breach of their fiduciary duties. These provisions may also have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders. Furthermore, a stockholder's investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors, officers and certain employees pursuant to these indemnification provisions. We believe that these provisions, the indemnification agreements and the insurance are necessary to attract and retain talented and experienced directors and officers.

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

The following table sets forth certain information with respect to the beneficial ownership of our common stock as of April 24, 2024 (except as otherwise noted) for:

- based on reports filed with the SEC, each person, or group of persons, who beneficially owns more than five percent (5%) of our common stock;
- each of our named executive officers;
- each of our directors; and
- all of our executive officers and directors as a group.

We have determined beneficial ownership in accordance with the rules of the SEC. Except as indicated by the footnotes below, we believe, based on the information furnished to us, that the persons and entities named in the table

below have sole voting and investment power with respect to all shares of common stock that they beneficially own, subject to applicable community property laws.

Applicable percentage ownership is based on 6,856,229 shares of common stock outstanding at April 24, 2024. In computing the number of shares of common stock beneficially owned by a person and the percentage ownership of that person, we deemed to be outstanding all shares of common stock subject to options or warrants held by that person or entity that are currently exercisable or that will become exercisable or releasable within 60 days of April 24, 2024. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person. Unless otherwise indicated, the address of each beneficial owner listed in the table below is c/o Agile Therapeutics, Inc., 500 College Road East, Suite 310, Princeton, New Jersey 08540.

Name of Beneficial Owner(1)	Number of Shares Beneficially Owned	Percentage of Shares Beneficially Owned
<b>Named Executive Officers and Directors</b>		
Al Altomari (2)	3,281	* %
Scott M. Coiante (3)	80	*
Geoffrey P. Gilmore (4)	891	*
Paul Korner, M.D. (5)	305	*
Sharon Barbari (6)	2,090	*
Sandra Carson, M.D., FACOG (7)	2,090	*
Seth H.Z. Fischer (8)	2,161	*
John Hubbard, Ph.D., FCP (9)	2,175	*
Josephine Torrente (10)	2,088	*
All current executive officers and directors as a group (11 persons)(11)	15,879	* %

\* Represents beneficial ownership of less than 1% of the outstanding shares of our common stock.

- (1) This table is based upon information supplied by officers, directors and stockholders known by us to be beneficial owners of more than five percent of our common stock as well as Section 16 reports filed with the SEC. We have not independently verified such information.
- (2) Includes (a) 1,286 shares of common stock owned by Mr. Altomari and (b) 1,995 shares of common stock that Mr. Altomari has the right to acquire from us within 60 days of April 24, 2024.
- (3) Represents 80 shares of common stock owned by Mr. Coiante.
- (4) Includes (a) 40 shares of common stock owned by Mr. Gilmore and (b) 851 shares of common stock that Mr. Gilmore has the right to acquire from us within 60 days of April 24, 2024.
- (5) Includes (a) zero shares of common stock owned by Dr. Korner and (b) 305 shares of common stock that Dr. Korner has the right to acquire from us within 60 days of April 24, 2024.
- (6) Includes (a) 38 shares of common stock owned by Ms. Barbari and (b) 2,052 shares of common stock that Ms. Barbari has the right to acquire from us within 60 days of April 24, 2024.
- (7) Includes (a) 38 shares of common stock owned by Dr. Carson and (b) 2,052 shares of common stock that Dr. Carson has the right to acquire from us within 60 days of April 24, 2024.
- (8) Includes (a) 41 shares of common stock owned by Mr. Fischer and (b) 2,120 shares of common stock that Mr. Fischer has the right to acquire from us within 60 days of April 24, 2024.

- (9) Includes (a) 41 shares of common stock owned by Dr. Hubbard and (b) 2,134 shares of common stock that Dr. Hubbard has the right to acquire from us within 60 days of April 24, 2024.
- (10) Includes (a) 39 shares of common stock owned by Ms. Torrente and (b) 2,049 shares of common stock that Ms. Torrente has the right to acquire from us within 60 days of April 24, 2024.
- (11) Includes (a) 1,632 shares of common stock owned and (b) 14,247 shares of common stock that these individuals have the right to acquire from us within 60 days of April 24, 2024.

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

In addition to the cash and equity compensation arrangements of our directors and named executive officers discussed under “Director Compensation” and “Executive Compensation,” the following is a description of transactions since January 1, 2023, to which we have been a party in which the amount involved exceeded or will exceed \$120,000 and in which any of our directors, executive officers, beneficial holders of more than 5% of our capital stock, or entities affiliated with or immediate family members of any of the foregoing, had or will have a direct or indirect material interest.

#### **Employment Agreements**

We have entered into employment agreements with certain of our executive officers. For more information regarding these agreements, see the section of this Amendment entitled “Executive Compensation.”

#### **Equity Awards and Payments to Executive Officers and Directors**

We have granted stock options to our executive officers and certain of our directors and paid fees to certain of our directors as more fully described in the section entitled “Director Compensation” and “Executive Compensation.”

#### **Review and Approval of Related Party Transactions**

Our Audit Committee Charter requires that our Audit Committee review and approve or ratify transactions involving us and any executive officer, director, director nominee, 5% stockholder and certain of their immediate family members, also referred to herein as a related person. The policy and procedures cover any transaction involving a related person, also referred to herein as a related person transaction, in which the related person has a material interest, and which does not fall under an explicitly stated exception set forth in the applicable disclosure rules of the SEC.

A related person transaction will be considered approved or ratified if it is authorized by the Audit Committee after full disclosure of the related person’s interest in the transaction. In considering related person transactions, the Audit Committee will consider any information considered material to investors and the following factors:

- the related person’s interest in the transaction;
- the approximate dollar value of the transaction;
- whether the transaction was undertaken in the ordinary course of our business;
- whether the terms of the transaction are no less favorable to us than terms that we could have reached with an unrelated third party; and
- the purpose and potential benefit to us of the transaction.

**Item 14. Principal Accountant Fees and Services**

The following table sets forth all fees paid or accrued by us for professional audit services and other services rendered by Ernst & Young LLP during the fiscal years ended December 31, 2023 and 2022:

	2023	2022
Audit Fees(1)	\$ 740,000	\$ 908,360
Audit-Related Fees(2)	—	—
Tax Fees(3)	—	—
All Other Fees(4)	—	—
<b>Total Fees</b>	<b>\$ 740,000</b>	<b>\$ 908,360</b>

- (1) Audit Fees: Consist of fees for professional services provided by Ernst & Young LLP in connection with the audit of our financial statements, review of our quarterly financial statements, and related services that are normally provided in connection with registration statements, including our 2023 and 2022 public offerings of common stock in connection with our shelf registration statements. Included in the 2023 audit fees are \$115,000 of fees billed in connection with our public offerings of common stock. Included in the 2022 audit fees are \$262,000 of fees billed in connection with our public offering of common stock.
- (2) Audit-Related Fees: Consist of fees for professional services that are reasonably related to the performance of the audit or review of our financial statements.
- (3) Tax Fees: Consist of fees for professional services in connection with tax compliance, tax planning, and tax advice, including foreign tax return preparation and requests for rulings or technical advice from tax authorities.
- (4) All Other Fees: Consist of the aggregate fees billed for products and services provided, other than the services reported as Audit Fees, Audit-Related Fees or Tax Fees.

**Pre-Approval of Audit and Non-Audit Services**

Consistent with requirements of the SEC and the Public Company Accounting Oversight Board regarding auditor independence, our audit committee is responsible for the appointment, compensation and oversight of the work of our independent registered public accounting firm. In recognition of this responsibility, our audit committee (or the chair if such approval is needed on a time urgent basis) generally pre-approves of all audit and permissible non-audit services provided by the independent registered public accounting firm. These services may include audit services, audit-related services, tax services and other services.

## PART IV

### Item 15. Exhibits, Financial Statement Schedules

The following documents are filed as a part of this report:

#### (a) Financial Statements

The information concerning our financial statements, and Report of Independent Registered Public Accounting Firm required by this Item is incorporated by reference herein to the section of the Original Form 10-K in Item 8, entitled “Financial Statements and Supplementary Data.”

#### (b) Financial Statement Schedules

All schedules have been omitted because the required information is not present or not present in amounts sufficient to require submission of the schedules, or because the information required is included in the financial statements or notes thereto.

#### (c) Exhibits

The list of exhibits filed with this Amendment is set forth in the Exhibit Index immediately preceding the signature page and is incorporated herein by reference.

<u>Exhibit Number</u>	
3.1	<a href="#">Amended and Restated Certificate of Incorporation of the Registrant. (Incorporated by reference, Exhibit 3.1 to Company's Current Report on Form 8-K, file number 001-36464, filed May on 30, 2014.)</a>
3.2	<a href="#">Certificate of Amendment to Amended and Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware on January 7, 2022 (Incorporated by reference, Exhibit 3.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on January 10, 2022.)</a>
3.3	<a href="#">Certificate of Amendment to Amended and Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware on April 26, 2022 (Incorporated by reference, Exhibit 3.1 to Company's Current Report on Form 8-K, file number 001-36454, filed on April 27, 2022.)</a>
3.4	<a href="#">Amended and Restated Bylaws of the Registrant. (Incorporated by reference, Exhibit 3.2 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 30, 2014.)</a>
3.5	<a href="#">Amended and Restated Bylaws of the Registrant. (Incorporated by reference, Exhibit 3.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on January 26, 2023.)</a>
3.6	<a href="#">Certificate of Designation of Preferences, Rights and Limitations of Series A Convertible Preferred Stock filed with the Secretary of State of the State of Delaware on March 14, 2022 (Incorporated by reference, Exhibit 3.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on March 15, 2022.)</a>
3.7	<a href="#">Certificate of Designation of Preferences, Rights and Limitations of Series B Convertible Preferred Stock filed with the Secretary of State of the State of Delaware on March 14, 2022 (Incorporated by reference, Exhibit 3.2 to Company's Current Report on Form 8-K, file number 001-36464, filed on March 15, 2022.)</a>
3.8	<a href="#">Certificate of Designation of Preferences, Rights, and Limitations of Series C Preferred Stock filed with the Secretary of State of the State of Delaware on January 26, 2023 (Incorporated by reference, Exhibit 3.2 to Company's Current Report on Form 8-K, file number 001-36464, filed on January 26, 2023.)</a>

[Table of Contents](#)

<u>Exhibit Number</u>	
3.9	<a href="#">Certificate of Amendment to Amended and Restated Certificate of Incorporation, as filed with the Secretary of State of Delaware on April 10, 2023 (Incorporated by reference, Exhibit 3.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on April 10, 2023.)</a>
4.1	<a href="#">Specimen Certificate evidencing shares of Registrant's common stock (Incorporated by reference, Exhibit 4.1 to Company's Third Amendment of Registration Statement on Form S-1, file number 333-194621, filed on May 9, 2014.)</a>
4.2	<a href="#">Amended and Restated Common Stock Purchase Warrant between Agile Therapeutics, Inc. and Perceptive Credit Holdings III, LP, dated as of March 21, 2023 (Incorporated by reference, Exhibit 4.2 to Company's Annual Report on Form 10-K, file number 001-36464, filed on March 23, 2023.)</a>
4.3	<a href="#">Amended and Restated Common Stock Purchase Warrant between Agile Therapeutics, Inc. and Perceptive Credit Holdings III, LP, dated as of March 21, 2023 (Incorporated by reference, Exhibit 4.3 to Company's Annual Report on Form 10-K, file number 001-36464, filed on March 23, 2023.)</a>
4.4	<a href="#">Amended and Restated Common Stock Purchase Warrant between Agile Therapeutics, Inc. and Perceptive Credit Holdings III, LP, dated as of March 21, 2023 (Incorporated by reference, Exhibit 4.4. to Company's Annual Report on Form 10-K, file number 001-36464, filed on March 23, 2023.)</a>
4.5	<a href="#">Form of Warrant (Incorporated by reference, Exhibit 4.1 to Company's Current Report on Form 8 - K, file number 001 - 36464, filed on October 8, 2021.)</a>
4.6	<a href="#">Form of Series A Warrant (Incorporated by reference, Exhibit 4.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on March 15, 2022.)</a>
4.7	<a href="#">Form of Series B Warrant (Incorporated by reference, Exhibit 4.2 to Company's Current Report on Form 8-K, file number 001-36464, filed on March 15, 2022.)</a>
4.8	<a href="#">Form of Placement Agent Warrant (Incorporated by reference, Exhibit 4.3 to Company's Current Report on Form 8-K, file number 001-36464, filed on March 15, 2022.)</a>
4.9	<a href="#">Form of Series A-1 Warrant (Incorporated by reference, Exhibit 4.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on July 8, 2022.)</a>
4.10	<a href="#">Form of Series A-2 Warrant (Incorporated by reference, Exhibit 4.2 to Company's Current Report on Form 8-K, file number 001-36464, filed on July 8, 2022.)</a>
4.11	<a href="#">Form of Series B Pre-Funded Warrant (Incorporated by reference, Exhibit 4.3 to Company's Current Report on Form 8-K, file number 001-36464, filed on July 8, 2022.)</a>
4.12	<a href="#">Form of Placement Agent Warrant (Incorporated by reference, Exhibit 4.4 to Company's Current Report on Form 8-K, file number 001-36464, filed on July 8, 2022.)</a>
4.13	<a href="#">Form of Series C-1 Warrant (Incorporated by reference, Exhibit 4.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</a>
4.14	<a href="#">Form of Series C-2 Warrant (Incorporated by reference, Exhibit 4.2 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</a>
4.15	<a href="#">Form of Series D Pre-funded Warrant (Incorporated by reference, Exhibit 4.3 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</a>

## Table of Contents

<u>Exhibit Number</u>	
4.16	<a href="#"><u>Form of Placement Agent Warrant (Incorporated by reference, Exhibit 4.4 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</u></a>
4.17	<a href="#"><u>Form of Amended and Restated Common Stock Purchase Warrant between Agile Therapeutics, Inc. and an institutional investor, dated October 8, 2021 (Incorporated by reference, Exhibit 4.5 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</u></a>
4.18	<a href="#"><u>Form of Amended and Restated Series A Common Stock Purchase Warrant between Agile Therapeutics, Inc. and an institutional investor, dated March 14, 2022 (Incorporated by reference, Exhibit 4.6 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</u></a>
4.19	<a href="#"><u>Form of Amended and Restated Series A Common Stock Purchase Warrant between Agile Therapeutics, Inc. and an institutional investor, dated April 25, 2022 (Incorporated by reference, Exhibit 4.7 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</u></a>
4.20	<a href="#"><u>Form of Amended and Restated Series A-1 Common Stock Purchase Warrant between Agile Therapeutics, Inc. and an institutional investor, dated July 6, 2022 (Incorporated by reference, Exhibit 4.8 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</u></a>
4.21	<a href="#"><u>Form of Amended and Restated Series A-2 Common Stock Purchase Warrant between Agile Therapeutics, Inc. and an institutional investor, dated July 6, 2022 (Incorporated by reference, Exhibit 4.9 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</u></a>
4.22	<a href="#"><u>Form of Amended and Restated Series B Common Stock Purchase Warrant between Agile Therapeutics, Inc. and an institutional investor, dated March 14, 2022 (Incorporated by reference, Exhibit 4.10 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</u></a>
4.23	<a href="#"><u>Form of New Warrant (Incorporated by reference, Exhibit 4.1 to Company's Current Report on Form 8-K, file number 001-36464, filed December 4, 2023.)</u></a>
4.24+	<a href="#"><u>Form of New Warrant</u></a>
4.25	<a href="#"><u>Form of New Warrant (Incorporated by reference, Exhibit 4.2 to Company's Current Report on Form 8-K, file number 001-36464, filed on February 23, 2024.)</u></a>
4.26	<a href="#"><u>Form of Placement Agent Warrant (Incorporated by reference, Exhibit 4.3 to Company's Current Report on Form 8-K, file number 001-36464, filed on February 23, 2024.)</u></a>
4.27	<a href="#"><u>Amendment to Warrants and Certificate of Adjustment between Agile Therapeutics, Inc. and Perceptive Credit Holdings III, L.P, dated as of October 30, 2023 (Incorporated by reference, Exhibit 4.25 to Company's Registration on Form S-1, file number 333-194621, filed on December 11, 2023.)</u></a>
4.28	<a href="#"><u>Description of Capital Stock (Incorporated by reference, Exhibit 4.4 to Company's Annual Report on Form 10-K, file number 001-36464, filed on February 20, 2020.)</u></a>
10.1+	<a href="#"><u>Form of Indemnification Agreement. (Incorporated by reference, Exhibit 10.1 to Company's Second Amendment of Registration Statement on Form S-1, file number 333-194621, filed on May 5, 2014.)</u></a>
10.2+	<a href="#"><u>Form of Performance Unit Issuance Agreement (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on January 26, 2018.)</u></a>

## Table of Contents

<u>Exhibit Number</u>	
10.3	<a href="#"><u>Lease Agreement, dated August 6, 2021 by and between Agile Therapeutics, Inc. and 500 College Road Venture, LLC (Incorporated by reference, Exhibit 10.1 to Company's Quarterly Report on Form 10-Q, file number 001-36464, filed on November 2, 2021.)</u></a>
10.4	<a href="#"><u>Common Stock Sales Agreement dated November 8, 2019 by and between Agile Therapeutics, Inc. and H.C. Wainwright &amp; Co., LLC (Incorporated by reference, Exhibit 1.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on November 8, 2019.)</u></a>
10.5	<a href="#"><u>Common Stock Sales Agreement dated March 18, 2021, by and between Agile Therapeutics, Inc. and H.C. Wainwright &amp; Co., LLC (Incorporated by reference, Exhibit 1.1 to the Company's Current Report on Form 8-K, file number 001-036464, filed on March 18, 2021.)</u></a>
10.6	<a href="#"><u>Common Stock Sales Agreement dated April 27, 2022 by and between Agile Therapeutics, Inc. and H.C. Wainwright &amp; Co., LLC (Incorporated by reference, Exhibit 1.1 to Company's Current Report on Form 8-K, file number 001-036464, filed on April 27, 2022.)</u></a>
10.7	<a href="#"><u>Controlled Equity Offering<sup>SM</sup> Sales Agreement dated January 10, 2022 by and among Agile Therapeutics, Inc. and Cantor Fitzgerald &amp; Co. and H.C. Wainwright &amp; Co., LLC (Incorporated by reference, Exhibit 1.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on January 10, 2022.)</u></a>
10.8	<a href="#"><u>Engagement Agreement, by and between Agile Therapeutics, Inc. and H.C. Wainwright &amp; Co., LLC (Incorporated by reference, Exhibit 10.32 to Company's Amendment No. 1 to Registration Statement on Form S-1/A, file number 333-264960, filed on June 29, 2022.)</u></a>
10.9	<a href="#"><u>Amendment to Engagement Agreement, by and between Agile Therapeutics, Inc. and H.C. Wainwright &amp; Co., LLC (Incorporated by reference, Exhibit 10.33 to Company's Amendment No. 1 to Registration Statement on Form S-1/A, file number 333-264960, filed on June 29, 2022.)</u></a>
10.10	<a href="#"><u>Credit Agreement and Guaranty among Agile Therapeutics, Inc., the guarantors from time to time party thereto, the lenders from time to time party thereto and Perceptive Credit Holdings III, LP, dated as of February 10, 2020 (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on February 12, 2020.)</u></a>
10.11	<a href="#"><u>Waiver and First Amendment to Credit Agreement and Guaranty among Agile Therapeutics, Inc., the guarantors from time to time party thereto, the lenders from time to time party thereto and Perceptive Credit Holdings III, LP, dated as of February 26, 2021 (Incorporated by reference, Exhibit 10.11 to Company's Annual Report on Form 10-K, file number 001-36464, filed on March 1, 2021.)</u></a>
10.12	<a href="#"><u>Waiver and Second Amendment to Credit Agreement and Guaranty among Agile Therapeutics, Inc., the guarantors from time to time party thereto, the lenders from time to time party thereto and Perceptive Credit Holdings III, LP, dated as of January 7, 2022 (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on January 10, 2022.)</u></a>
10.13	<a href="#"><u>Waiver and Third Amendment to Credit Agreement and Guaranty among Agile Therapeutics, Inc., the guarantors from time to time party thereto, the lenders from time to time party thereto and Perceptive Credit Holdings III, LP, dated as of March 10, 2022 (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on March 11, 2022.)</u></a>
10.14	<a href="#"><u>Waiver and Fourth Amendment to Credit Agreement and Guaranty among Agile Therapeutics, Inc., the guarantors from time to time party thereto, the lenders from time to time party thereto and Perceptive Credit Holdings III, LP, dated as of May 11, 2022 (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 12, 2022.)</u></a>



## Table of Contents

<u>Exhibit Number</u>	
10.15	<a href="#"><u>Fifth Amendment to Credit Agreement and Guaranty among Agile Therapeutics, Inc., the guarantors from time to time party thereto, the lenders from time to time party thereto and Perceptive Credit Holdings III, L.P. dated as of July 25, 2022 (Incorporated by reference, Exhibit 10.1 to Company's Quarterly Report on form 10-Q, file number 001-36464, filed on November 7, 2022.)</u></a>
10.16	<a href="#"><u>Waiver and Sixth Amendment to Credit Agreement and Guaranty among Agile Therapeutics, Inc., the guarantors from time to time party thereto, the lenders from time to time party thereto and Perceptive Credit Holdings III, LP, dated as of March 21, 2023 (Incorporated by referenced, Exhibit 10.18 to Company Registration on Form S-1, file number 333-271249, filed on April 14, 2023.)</u></a>
10.17	<a href="#"><u>Seventh Amendment to Credit Agreement and Guaranty among Agile Therapeutics, Inc., the guarantors from time to time party thereto, the lenders from time to time party thereto and Perceptive Credit Holdings III, LP, dated as of October 30, 2023 (Incorporated by reference, Exhibit 10.19 to Company's Registration on Form S-1, file number 333-194621, filed on December 11, 2023.)</u></a>
10.18	<a href="#"><u>Eighth Amendment to Credit Agreement and Guaranty, by and among Agile Therapeutics, Inc., the guarantors from time to party thereto, the lenders from time to time party thereto and Perceptive Credit Holdings III, LP, dated as of February 9, 2024 (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on February 15, 2024.)</u></a>
10.19	<a href="#"><u>Form of Securities Purchase Agreement, dated March 13, 2022, by and between Agile Therapeutics, Inc. and the purchaser signatory thereto (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on March 15, 2022.)</u></a>
10.20	<a href="#"><u>Form of Securities Purchase Agreement by and between Agile Therapeutics, Inc. and the purchasers signatory thereto (Incorporated by reference, Exhibit 10.31 to Company's Amendment No. 1 to Registration Statement on Form S-1/A, file number 333-264960, filed on June 29, 2022.)</u></a>
10.21	<a href="#"><u>Form of Securities Purchase Agreement, by and between Agile Therapeutics, Inc., and certain purchasers (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on July 8, 2022.)</u></a>
10.22	<a href="#"><u>Form of Securities Purchase Agreement, dated May 22, 2023, by and between Agile Therapeutics, Inc. and certain purchasers (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</u></a>
10.23	<a href="#"><u>Form of Warrant Amendment Agreement, dated May 22, 2023, by and between Agile Therapeutics, Inc. and certain holders (Incorporated by reference, Exhibit 10.2 to Company's Current Report on Form 8-K, file number 001-36464, filed on May 25, 2023.)</u></a>
10.24	<a href="#"><u>Form of Exercise Agreement (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on February 23, 2024.)</u></a>
10.25*	<a href="#"><u>Project Agreement, dated April 30, 2020, by and between Agile Therapeutics, Inc. and inVentiv Commercial Services, LLC (Incorporated by reference, Exhibit 10.1 to Company's Quarterly Report on Form 10-Q, file number 001-36464, filed on August 11, 2020.)</u></a>
10.26*	<a href="#"><u>First Amendment to Project Agreement, dated June 1, 2020, by and between Agile Therapeutics, Inc. and inVentiv Commercial Services, LLC (Incorporated by reference, Exhibit 10.13 to Company's Annual Report on Form 10-K, file number 001-36464, filed on March 1, 2021.)</u></a>

## Table of Contents

<u>Exhibit Number</u>	
10.27*	<a href="#"><u>Second Amendment to Project Agreement, dated January 1, 2021, by and between Agile Therapeutics, Inc. and inVentiv Commercial Services, LLC (Incorporated by reference, Exhibit 10.2 to Company's Quarterly Report on Form 10-Q, file number 001-36464, filed on November 2, 2021.)</u></a>
10.28*	<a href="#"><u>Third Amendment to Project Agreement, dated July 1, 2021, by and between Agile Therapeutics, Inc. and inVentiv Commercial Services, LLC. (Incorporated by reference, Exhibit 10.3 to Company's Quarterly Report on Form 10-Q, file number 001-36464, filed on November 2, 2021.)</u></a>
10.29*	<a href="#"><u>Fourth Amendment to Project Agreement, dated September 1, 2021, by and between Agile Therapeutics, Inc. and inVentiv Commercial Services, LLC. (Incorporated by reference, Exhibit 10.24 to Company's Annual Report on Form 10-K, file number 001-36464, filed on March 30, 2022.)</u></a>
10.30*	<a href="#"><u>Fifth Amendment to Project Agreement, dated February 1, 2022, by and between Agile Therapeutics, Inc. and inVentiv Commercial Services LLC (Incorporated by reference, Exhibit 10.5 to Company's Quarterly Report on Form 10-Q, file number 001-36464, filed on May 12, 2022.)</u></a>
10.31*	<a href="#"><u>Sixth Amendment to Project Agreement, dated January 3, 2023, by and between Agile Therapeutics, Inc. and inVentiv Commercial Services, LLC (Incorporated by reference, Exhibit 10.27 to the Company's Annual Report on Form 10-K, file number 001-36464, filed on March 23, 2023.)</u></a>
10.32*	<a href="#"><u>Seventh Amendment to Project Agreement, dated September 28, 2023, by and between Agile Therapeutics Inc., and Syneos Health Commercial Services, LLC (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on September 28, 2023.)</u></a>
10.33*	<a href="#"><u>Master Service Agreement, dated October 11, 2017, by and between Agile Therapeutics, Inc. and inVentiv Commercial Services, LLC (Incorporated by reference, Exhibit 10.2 to Company's Quarterly Report on Form 10-Q, file number 001-36464, filed on August 11, 2020.)</u></a>
10.34*	<a href="#"><u>First Amendment to Master Service Agreement, dated April 30, 2020, by and between Agile Therapeutics, Inc. and inVentiv Commercial Services, LLC (Incorporated by reference, Exhibit 10.3 to Company's Quarterly Report on Form 10-Q, file number 001-36464, filed on August 11, 2020.)</u></a>
10.35*	<a href="#"><u>Manufacturing and Commercialization Agreement, dated April 30, 2020, by and between Agile Therapeutics, Inc. and Corium, Inc. (Incorporated by reference, Exhibit 10.4 to Company's Quarterly Report on Form 10-Q, file number 001-36464, filed on August 11, 2020.)</u></a>
10.36	<a href="#"><u>Amendment No. 1 to Manufacturing and Commercialization Agreement, by and between Corium, Inc. and Agile Therapeutics, Inc., dated as of July 25, 2022, and Bill of Sale by Agile Therapeutics, Inc. to Corium Inc., dated as of July 25, 2022 (Incorporated by reference, Exhibit 10.2 to Company's Quarterly Report on Form 10-Q, file number 001-36464, filed on November 7, 2022.)</u></a>
10.37+	<a href="#"><u>Agile Therapeutics, Inc. Amended and Restated 2014 Incentive Compensation Plan (Incorporated by reference, Appendix A to Registrant's Proxy Statement pursuant to Section 14(a) of the Securities Exchange Act of 1934, file number 001-36464, filed on April 25, 2018.)</u></a>
10.38+	<a href="#"><u>Agile Therapeutics, Inc. 2023 Equity Incentive Plan effective June 8, 2023 (Incorporated by reference, Exhibit 99.1 to Company's Registration Statement on Form S-8, file number 333-272576, filed on June 9, 2023.)</u></a>
10.39+	<a href="#"><u>Amended and Restated Employment Agreement, dated November 22, 2022 by and between Agile Therapeutics, Inc. and Alfred Altomari (Incorporated by referenced, Exhibit 10.33 to the Company's Annual Report on Form 10-K, file number 001-36464, filed on March 23, 2023.)</u></a>

## Table of Contents

<u>Exhibit Number</u>	
10.40+	<a href="#"><u>Amended and Restated Employment Agreement, dated November 1, 2022 by and between Agile Therapeutics, Inc. and Geoffrey P. Gilmore (Incorporated by referenced, Exhibit 10.34 to the Company's Annual Report on Form 10-K, file number 001-36464, filed on March 23, 2023).</u></a>
10.41+	<a href="#"><u>Amended and Restated Employment Agreement, dated November 1, 2022 by and between Agile Therapeutics, Inc. and Paul Korner, MD (Incorporated by referenced, Exhibit 10.35 to the Company's Annual Report on Form 10-K, file number 001-36464, filed on March 23, 2023).</u></a>
10.42+	<a href="#"><u>Employment Agreement, dated August 16, 2023, by and between Agile Therapeutics, Inc. and Scott Coiante (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K/A, file number 001-36464, filed August 22, 2023).</u></a>
10.43+	<a href="#"><u>Transition and Separation Agreement, dated August 17, 2023, by and between Agile Therapeutics, Inc. and Jason Butch (Incorporated by reference, Exhibit 10.2 to Company's Quarterly Report on Form 10-Q, file number 001-36464, filed on November 9, 2023).</u></a>
10.44	<a href="#"><u>Form of Warrant Amendment and Additional Issuance Agreement (Incorporated by reference, Exhibit 10.1 to Company's Current Report on Form 8-K, file number 001-36464, filed on December 4, 2023).</u></a>
23.1	<a href="#"><u>Consent of Independent Registered Public Accounting Firm (Incorporated by reference, Exhibit 23.1 to Company's Annual Report on Form 10-K, file number 001-36464, filed on March 28, 2024).</u></a>
31.1**	<a href="#"><u>Certification of Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u></a>
31.2**	<a href="#"><u>Certification of Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u></a>
32.1**	<a href="#"><u>Certification of Chief Executive Officer pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u></a>
32.2**	<a href="#"><u>Certification of Chief Financial Officer pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u></a>
97.1	<a href="#"><u>Agile Therapeutics, Inc. Compensation Recoupment Policy (Incorporated by reference, Exhibit 97.1 to Company's Annual Report on Form 10 - K, file number 001 - 36464, filed on March 28, 2024).</u></a>
101	The following materials from the Company's Annual Report on Form 10-K for the period ended December 31, 2023 formatted in Inline XBRL (eXtensible Business Reporting Language): (i) Balance Sheets, (ii) Statements of Operations and Comprehensive Loss, (iii) Statements of Stockholders' Equity, (iv) Statements of Cash Flows, and (v) the Notes to Financial Statements.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)
+	Indicates management contract or compensatory plan or arrangement.
*	Portions of this exhibit have been redacted in accordance with Regulation S-K Item 601(b)(10).
**	Filed or furnished, as applicable, herewith.
±	Filed with this Amendment to our Annual Report on Form 10-K to address a scrivener's error in its original filing.

**Signatures**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Amendment No. 1 to the Annual Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized, on April 29, 2024.

AGILE THERAPEUTICS, INC.

By:                                 /s/ ALFRED ALTOMARI                                  
                                Alfred Altomari  
                                *Chief Executive Officer*

NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

## COMMON STOCK PURCHASE WARRANT

### AGILE THERAPEUTICS, INC.

Warrant Shares: 3,992,572

Initial Exercise Date: February 26, 2024

THIS COMMON STOCK PURCHASE WARRANT (the “Warrant”) certifies that, for value received, \_\_\_\_\_ or its assigns (the “Holder”) is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the “Initial Exercise Date”) and on or prior to 5:00 p.m. (New York City time) on February 26, 2029 (the “Termination Date”) but not thereafter, to subscribe for and purchase from Agile Therapeutics, Inc., a Delaware corporation (the “Company”), up to 3,992,572 shares (as subject to adjustment hereunder, the “Warrant Shares”) of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. In addition to the terms defined elsewhere in this Warrant, the following terms have the meanings indicated in this Section 1:

“Affiliate” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

“Bid Price” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported

---

on the Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

“Board of Directors” means the board of directors of the Company.

“Business Day” means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to “stay at home”, “shelter-in-place”, “non-essential employee” or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York generally are open for use by customers on such day.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” means the common stock of the Company, par value \$0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

“Common Stock Equivalents” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Subsidiary” means any subsidiary of the Company and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

“Trading Day” means a day on which the Common Stock is traded on a Trading Market.

---

“Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange (or any successors to any of the foregoing).

“Transfer Agent” means Broadridge Corporate Issuer Solutions, Inc., the current transfer agent of the Company, with a mailing address of 51 Mercedes Way, Edgewood, New York 11717, and any successor transfer agent of the Company.

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

“Warrants” means this Warrant and other Common Stock purchase warrants issued by the Company.

## Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form annexed hereto (the “Notice of Exercise”). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the Warrant Shares specified in the applicable Notice of Exercise by wire transfer or cashier’s check drawn on a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date on which the final Notice of

---

Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The exercise price per share of Common Stock under this Warrant shall be **\$1.00**, subject to adjustment hereunder (the "Exercise Price").

c) Cashless Exercise. If at the time of exercise hereof there is no effective registration statement registering, or the prospectus contained therein is not available for the resale of the Warrant Shares by the Holder, then this Warrant may also be exercised, in whole or in part, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing [(A-B) (X)] by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, or (ii) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg L.P. ("Bloomberg") as of the time of the Holder's execution of the applicable Notice of Exercise if such Notice of Exercise is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of "regular trading hours" on a Trading Day) pursuant to Section 2(a) hereof;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the holding period of the Warrant Shares being issued may be tacked on to the holding period of this Warrant. The Company agrees not to take any position contrary to this Section 2(c).

---



d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) the Warrant Shares are eligible for resale by the Holder without volume or manner-of-sale limitations pursuant to Rule 144 (assuming cashless exercise of the Warrants), and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earlier of (A) the earlier of (i) two (2) Trading Days and (ii) the number of days comprising the Standard Settlement Period, in each case after the delivery to the Company of the Notice of Exercise and (B) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company (such date, the "Warrant Share Delivery Date"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received by the Warrant Share Delivery Date. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the third Trading Day after the Warrant Share Delivery Date) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of

---

delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date (other than any such failure that is solely due to any action by the Holder with respect to such exercise), and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

---

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that, in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially

---

owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination (including any determination as to group status pursuant to the next sentence). In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder.

For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61<sup>st</sup> day after such notice is delivered to the Company.

The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be

---

defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

---

c) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a “Distribution”), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company or any Subsidiary, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of more than 50% of the outstanding Common Stock or more than 50% of the voting power of the common equity of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the outstanding shares of Common Stock or more than 50% of the voting power of the common equity of the Company (each a “Fundamental Transaction”), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(e) on the exercise of this Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation,

---

and any additional consideration (the “Alternate Consideration”) receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction.

Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, the Company or any Successor Entity (as defined below) shall, at the Holder’s option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the applicable Fundamental Transaction), purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value (as defined below) of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction; provided, however, that, if the Fundamental Transaction is not within the Company’s control, including not approved by the Company’s Board of Directors, Holder shall only be entitled to receive from the Company or any Successor Entity the same type or form of consideration (and in the same proportion), at the Black Scholes Value of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; provided, further, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received common stock of the Successor Entity (which Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. “Black Scholes Value” means the value of this Warrant based on the Black Scholes Option Pricing Model obtained from the “OV” function on Bloomberg determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable contemplated Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the greater of (a) the 30 day volatility, (b) the 100 day volatility and (c) the 365 day volatility, each obtained from the HVT function on Bloomberg (determined utilizing a 365-day annualization factor) as of the Trading Day immediately following the public announcement of the applicable contemplated Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction

---

and (D) a remaining option time equal to the time between the date of the public announcement of the applicable contemplated Fundamental Transaction and the Termination Date and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds (or such other consideration) within five (5) Trading Days of the Holder's election (or, if later, on the effective date of the Fundamental Transaction). The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

e) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

---



ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice.

To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

g) Voluntary Adjustment By Company. Subject to the rules and regulations of the Trading Market, the Company may at any time during the term of this Warrant, reduce the then current Exercise Price to any amount and for any period of time deemed appropriate by the Board of Directors.

Section 4. Transfer of Warrant.

a) Transferability. Subject to compliance with any applicable securities laws and the conditions set forth in Section 4(d) hereof, this Warrant and all rights hereunder

---

(including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers an assignment form to the Company assigning this Warrant in full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the Initial Exercise Date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume or manner-of-sale restrictions or current public information requirements pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, provides to the Company an opinion of counsel, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that the transfer of this Warrant does not require registration under the Securities Act.

---

e) Representation by the Holder. The Holder, by the acceptance hereof, represents and warrants that it is acquiring this Warrant and, upon any exercise hereof, will acquire the Warrant Shares issuable upon such exercise, for its own account and not with a view to or for distributing or reselling such Warrant Shares or any part thereof in violation of the Securities Act or any applicable state securities law, except pursuant to sales registered or exempted under the Securities Act.

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3. Without limiting any rights of a Holder to receive Warrant Shares on a “cashless exercise” pursuant to Section 2(c) or to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Warrant.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

d) Authorized Shares.

The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed.

The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and

---

nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Warrant (whether brought against a party hereto or their respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is improper or is an inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Warrant and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing

---

contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If either party shall commence an action, suit or proceeding to enforce any provisions of this Warrant, the prevailing party in such action, suit or proceeding shall be reimbursed by the other party for their reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Exercise, shall be in writing and delivered personally, by e-mail, or sent by a nationally recognized overnight courier service, addressed to the Company, at 500 College Road East, Suite 310, Princeton, NJ 08540, Attention: Jason Butch, email address: jbutch@agiletherapeutics.com, or such other email address or address as the Company may specify for such purposes by notice to the Holders. Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by e-mail, or sent by a nationally recognized overnight courier service addressed to each Holder at the e-mail address or address of such Holder appearing on the books of the Company. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the time of transmission, if such notice or communication is delivered via e-mail at the e-mail address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the time of transmission, if such notice or communication is delivered via e-mail at the e-mail address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and

---

no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand, and the Holder, on the other hand.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

\*\*\*\*\*

*(Signature Page Follows)*

---

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**AGILE THERAPEUTICS, INC.**

By: \_\_\_\_\_  
Name:  
Title:

---

**NOTICE OF EXERCISE**

TO: AGILE THERAPEUTICS, INC.

(1) The undersigned hereby elects to purchase \_\_\_\_\_ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

in lawful money of the United States; or

if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

\_\_\_\_\_

The Warrant Shares shall be delivered to the following DWAC Account Number:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(4) Accredited Investor. The undersigned is an “accredited investor” as defined in Regulation D promulgated under the Securities Act of 1933, as amended.

[SIGNATURE OF HOLDER]

Name of Investing Entity: \_\_\_\_\_

*Signature of Authorized Signatory of Investing Entity:* \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

Date: \_\_\_\_\_

---



ASSIGNMENT FORM

*(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to purchase shares.)*

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

Name:

(Please Print)

Address:

(Please Print)

Phone Number:

\_\_\_\_\_

Email Address:

\_\_\_\_\_

Dated: \_\_\_\_\_, \_\_\_\_\_

Holder's Signature: \_\_\_\_\_

Holder's Address: \_\_\_\_\_



**CERTIFICATION OF PERIODIC REPORT  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Alfred Altomari, certify that:

1. I have reviewed this Amendment No. 1 to the Annual Report on Form 10-K of Agile Therapeutics, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 29, 2024

/s/ ALFRED ALTOMARI

Alfred Altomari  
*Chief Executive Officer*  
*(Principal Executive Officer)*

---

**CERTIFICATION OF PERIODIC REPORT PURSUANT TO SECTION 302 OF THE  
SARBANES-OXLEY ACT OF 2002**

I, Scott M. Coiante, certify that:

1. I have reviewed this Amendment No. 1 to the Annual Report on Form 10-K of Agile Therapeutics, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 29, 2024

/s/ SCOTT M. COIANTE

\_\_\_\_\_  
Scott M. Coiante  
*Chief Financial Officer*  
*(Principal Financial Officer)*

---

**STATEMENT OF CHIEF EXECUTIVE OFFICER OF  
AGILE THERAPEUTICS, INC.  
PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Amendment No. 1 to the Annual Report of Agile Therapeutics, Inc. (the “Company”) on Form 10-K for the year ended December 31, 2023 as filed with the Securities and Exchange Commission (the “Report”), I, Alfred Altomari, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that, based on my knowledge:

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

Date: April 29, 2024

/s/ ALFRED ALTOMARI

Alfred Altomari

*Chief Executive Officer*

*(Principal Executive Officer)*

---

**STATEMENT OF CHIEF ACCOUNTING OFFICER OF  
AGILE THERAPEUTICS, INC.  
PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Amendment No. 1 to the Annual Report of Agile Therapeutics, Inc. (the "Company") on Form 10-K for the year ended December 31, 2023 as filed with the Securities and Exchange Commission (the "Report"), I, Scott M. Coiante, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that, based on my knowledge:

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

Date: April 29, 2024

/s/ SCOTT M. COIANTE

\_\_\_\_\_  
Scott M. Coiante

*Chief Financial Officer*

*(Principal Financial Officer)*

---