

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

FORM 10-Q

(Mark One)

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

FOR THE QUARTERLY PERIOD ENDED June 30, 2022

OR

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

COMMISSION FILE NUMBER: 001-40254

MOVANO INC.

(Exact name of registrant as specified in its charter)

Delaware

(State of incorporation)

26-0579295

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

6800 Koll Center Parkway, Pleasanton, CA 94566

(Address of principal executive office) (Zip code)

(415) 651-3172

(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	MOVE	The Nasdaq Stock Market LLC

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, smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act:

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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 is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

As of August 12, 2022, there were 32,819,060 shares of our common stock, par value \$0.0001 per share, outstanding.

MOVANO INC.
FORM 10-Q
FOR THE THREE AND SIX MONTHS ENDED JUNE 30, 2022

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PART I – FINANCIAL INFORMATION

Item 1. Financial Statements

Movano Inc.
Condensed Consolidated Balance Sheets
(in thousands, except share and per share data)
(Unaudited)

	<u>June 30,</u> <u>2022</u>	<u>December 31,</u> <u>2021</u>
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 17,089	\$ 17,675
Short-term investments	4,214	15,921
Payroll tax credit, current portion	379	166
Prepaid expenses and other current assets	1,289	1,296
Total current assets	<u>22,971</u>	<u>35,058</u>
Property and equipment, net	474	529
Payroll tax credit, noncurrent portion	417	630
Other assets	530	48
Total assets	<u>\$ 24,392</u>	<u>\$ 36,265</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 753	\$ 311
Other current liabilities	2,635	2,907
Total current liabilities	<u>3,388</u>	<u>3,218</u>
Noncurrent liabilities:		
Early exercised stock option liability	205	281
Other noncurrent liabilities	302	36
Total noncurrent liabilities	<u>507</u>	<u>317</u>
Total liabilities	<u>3,895</u>	<u>3,535</u>
Commitments and contingencies (Note 12)		
Stockholders' equity:		
Preferred stock, \$0.0001 par value, 5,000,000 shares authorized at June 30, 2022 and December 31, 2021; no shares issued and outstanding at June 30, 2022 and December 31, 2021	—	—
Common stock, \$0.0001 par value, 75,000,000 shares authorized at June 30, 2022 and December 31, 2021; 32,818,060 and 32,772,060 shares issued and outstanding at June 30, 2022 and December 31, 2021, respectively	3	3
Additional paid-in capital	99,077	97,506
Accumulated other comprehensive loss	(15)	(11)
Accumulated deficit	(78,568)	(64,768)
Total stockholders' equity	<u>20,497</u>	<u>32,730</u>
Total liabilities and stockholders' equity	<u>\$ 24,392</u>	<u>\$ 36,265</u>

See accompanying notes to condensed consolidated financial statements.

Movano Inc.
Condensed Consolidated Statements of Operations and Comprehensive Loss
(in thousands, except share and per share data)
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
OPERATING EXPENSES:				
Research and development	\$ 4,112	\$ 3,183	\$ 8,703	\$ 5,125
General and administrative	2,734	1,863	5,081	3,187
Total operating expenses	<u>6,846</u>	<u>5,046</u>	<u>13,784</u>	<u>8,312</u>
Loss from operations	<u>(6,846)</u>	<u>(5,046)</u>	<u>(13,784)</u>	<u>(8,312)</u>
Other income (expense), net:				
Interest expense	—	—	—	(883)
Change in fair value of warrant liability	—	—	—	(1,581)
Change in fair value of derivative liability	—	—	—	121
Forgiveness of Paycheck Protection Program Loan	—	351	—	351
Interest and other income (expense), net	(22)	8	(16)	9
Other income (expense), net	<u>(22)</u>	<u>359</u>	<u>(16)</u>	<u>(1,983)</u>
Net loss	(6,868)	(4,687)	(13,800)	(10,295)
Accretion and dividends on redeemable convertible preferred stock	—	—	—	(2,489)
Net loss attributable to common stockholders	<u>\$ (6,868)</u>	<u>\$ (4,687)</u>	<u>\$ (13,800)</u>	<u>\$ (12,784)</u>
Net loss	\$ (6,868)	\$ (4,687)	\$ (13,800)	\$ (10,295)
Other comprehensive loss:				
Change in unrealized gain (loss) on available-for-sale securities	15	(1)	(4)	(1)
Total comprehensive loss	<u>\$ (6,853)</u>	<u>\$ (4,688)</u>	<u>\$ (13,804)</u>	<u>\$ (10,296)</u>
Net loss per share attributable to common stockholders, basic and diluted	<u>\$ (0.21)</u>	<u>\$ (0.15)</u>	<u>\$ (0.42)</u>	<u>\$ (0.64)</u>
Weighted average shares used in computing net loss per share attributable to common stockholders, basic and diluted	<u>32,793,907</u>	<u>32,017,335</u>	<u>32,769,093</u>	<u>20,099,402</u>

See accompanying notes to condensed consolidated financial statements.

Movano Inc.
Condensed Consolidated Statements of Redeemable Convertible Preferred Stock and Stockholders' Equity
(in thousands, except share data)
(Unaudited)

	Redeemable Convertible Preferred Stock				Common Stock		Additional Paid-In Capital	Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' Equity
	Series A		Series B		Shares	Amount				
	Shares	Amount	Shares	Amount						
Three Months Ended June 30, 2022										
Balance at March 31, 2022	—	\$ —	—	\$ —	32,772,060	\$ 3	\$ 98,261,761	\$ (30)	\$ (71,700)	\$ 26,534,761
Stock-based compensation	—	—	—	—	—	—	—	—	—	—
Issuance of common stock upon exercise of options	—	—	—	—	46,000	—	19	—	—	19
Vesting of early exercised stock options	—	—	—	—	—	—	36	—	—	36
Other comprehensive gain	—	—	—	—	—	—	—	15	—	15
Net loss	—	—	—	—	—	—	—	—	(6,868)	(6,868)
Balance at June 30, 2022	—	\$ —	—	\$ —	32,818,060	\$ 3	\$ 99,077	\$ (15)	\$ (78,568)	\$ 20,497

	Redeemable Convertible Preferred Stock				Common Stock		Additional Paid-In Capital	Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' Equity
	Series A		Series B		Shares	Amount				
	Shares	Amount	Shares	Amount						
Six Months Ended June 30, 2022										
Balance at December 31, 2021	—	\$ —	—	\$ —	32,772,060	\$ 3	\$ 97,506,147	\$ (11)	\$ (64,768)	\$ 32,730,147
Stock-based compensation	—	—	—	—	—	—	1,476	—	—	1,476
Issuance of common stock upon exercise of options	—	—	—	—	46,000	—	19	—	—	19
Vesting of early exercised stock options	—	—	—	—	—	—	76	—	—	76
Other comprehensive loss	—	—	—	—	—	—	—	(4)	—	(4)
Net loss	—	—	—	—	—	—	—	—	(13,800)	(13,800)
Balance at June 30, 2022	—	\$ —	—	\$ —	32,818,060	\$ 3	\$ 99,077	\$ (15)	\$ (78,568)	\$ 20,497

	Redeemable Convertible Preferred Stock				Common Stock		Additional Paid-In Capital	Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' Equity
	Series A		Series B		Shares	Amount				
	Shares	Amount	Shares	Amount						
Three Months Ended June 30, 2021										
Balance at March 31, 2021	—	\$ —	—	\$ —	32,772,060	\$ 3	\$ 95,882,340	\$ —	\$ (48,603)	\$ 47,282,340
Stock-based compensation	—	—	—	—	—	—	340	—	—	340
Vesting of early exercised stock options	—	—	—	—	—	—	36	—	—	36
Other comprehensive loss	—	—	—	—	—	—	—	(1)	—	(1)
Net loss	—	—	—	—	—	—	—	—	(4,687)	(4,687)
Balance at June 30, 2021	—	\$ —	—	\$ —	32,772,060	\$ 3	\$ 96,258	\$ (1)	\$ (53,290)	\$ 42,970

	Redeemable Convertible Preferred Stock				Common Stock		Additional Paid-In Capital	Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' (Deficit) Equity
	Series A		Series B		Shares	Amount				
	Shares	Amount	Shares	Amount						
Six Months Ended June 30, 2021										
Balance at December 31, 2020	2,692,253	\$ 13,856	4,942,319	\$ 18,962	6,393,069	\$ 1	\$ —	\$ —	\$ (40,881)	\$ (40,880)
Stock-based compensation	—	—	—	—	—	—	695	—	—	695
Accretion of Series A and Series B redeemable convertible preferred stock	—	686	—	1,803	—	—	(2,489)	—	—	(2,489)
Issuance of common stock upon exercise of options	—	—	—	—	134,541	—	49	—	—	49
Vesting of early exercised stock options	—	—	—	—	—	—	74	—	—	74
Reclassification of negative additional paid-in capital	—	—	—	—	—	—	2,114	—	(2,114)	—
Conversion of preferred stock to common stock upon initial public offering net of issuance costs	(2,692,253)	(14,542)	(4,942,319)	(20,765)	11,436,956	1	35,306	—	—	35,307
Issuance of common stock upon initial public offering, net of issuance costs	—	—	—	—	9,775,000	1	41,924	—	—	41,925
Issuance of underwriter warrants upon initial public offering	—	—	—	—	—	—	2,349	—	—	2,349
Reclassification of liability-classified warrants upon initial public offering	—	—	—	—	—	—	3,130	—	—	3,130
Conversion of convertible promissory notes and accrued interest upon initial public offering	—	—	—	—	5,015,494	—	12,550	—	—	12,550
Issuance of common stock for nonemployee services	—	—	—	—	17,000	—	85	—	—	85
Beneficial conversion feature upon issuance of convertible promissory note	—	—	—	—	—	—	471	—	—	471
Other comprehensive loss	—	—	—	—	—	—	—	(1)	—	(1)
Net loss	—	—	—	—	—	—	—	—	(10,295)	(10,295)
Balance at June 30, 2021	—	\$ —	—	\$ —	32,772,060	\$ 3	\$ 96,258	\$ (1)	\$ (53,290)	\$ 42,970

See accompanying notes to condensed consolidated financial statements.

Movano Inc.
Condensed Consolidated Statements of Cash Flows
(in thousands)
(Unaudited)

	Six Months Ended	
	June 30,	
	2022	2021
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$ (13,800)	\$ (10,295)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	73	18
Forgiveness of Paycheck Protection Program loan	—	(351)
Stock-based compensation	1,476	695
Noncash lease expense	(6)	—
Accretion of debt discount on convertible promissory notes	—	772
Accrued interest on convertible promissory notes	—	115
Accretion of discount on short-term investments	93	21
Non-employee services under convertible promissory notes	—	50
Compensation of non-employee services upon issuance of common stock	—	74
Change in fair value of derivative liability	—	(121)
Change in fair value of warrant liability	—	1,581
Loss on disposal of property and equipment	44	—
Changes in operating assets and liabilities:		
Payroll tax credit	—	88
Prepaid expenses and other current assets	7	(1,008)
Other assets	(5)	(45)
Accounts payable	442	5
Other current and noncurrent liabilities	(477)	629
Net cash used in operating activities	(12,153)	(7,772)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of property and equipment	(62)	(304)
Purchases of short-term investments	—	(13,424)
Maturities of short-term investments	11,610	—
Net cash provided by / (used in) investing activities	11,548	(13,728)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Issuance of common stock	19	76
Proceeds from issuance of shares upon Initial Public Offering - net of issuance costs	—	45,019
Net cash provided by financing activities	19	45,095
Net (decrease) / increase in cash and cash equivalents	(586)	23,595
Cash and cash equivalents at beginning of period	17,675	5,710
Cash and cash equivalents at end of period	\$ 17,089	\$ 29,305
NONCASH INVESTING AND FINANCING ACTIVITIES:		
Accretion of Series A redeemable convertible preferred stock	\$ —	\$ 686
Accretion of Series B redeemable convertible preferred stock	\$ —	\$ 1,803
Conversion of preferred stock to common stock upon initial public offering	\$ —	\$ 35,307
Reclassification of liability-classified warrants upon initial public offering	\$ —	\$ 3,130
Issuance of underwriter warrants upon initial public offering	\$ —	\$ 2,349
Issuance of convertible promissory notes for completion of non-employee services	\$ —	\$ 500
Beneficial conversion feature upon issuance of convertible promissory note	\$ —	\$ 471
Conversion of convertible promissory notes upon initial public offering	\$ —	\$ 12,550
Vesting of common stock issued upon early exercise	\$ 76	\$ 74
Issuance of common stock for non-employee services	\$ —	\$ 11
Reclassification of deferred offering costs upon initial public offering	\$ —	\$ 497
Property and equipment purchase in accounts payable	\$ 25	\$ —

See accompanying notes to condensed consolidated financial statements.

Movano Inc.
Notes to Condensed Consolidated Financial Statements
For the three months and six months ended June 30, 2022 and 2021
(Unaudited)

NOTE 1 – BUSINESS ORGANIZATION, NATURE OF OPERATIONS

Movano Inc. (the “Company”, “Movano”, “we”, “us” or “our”) was incorporated in Delaware on January 30, 2018 as Maestro Sensors Inc. and changed its name to Movano Inc. on August 3, 2018. The Company is in the development-stage and is developing a platform to deliver purpose-driven healthcare solutions at the intersection of medtech and consumer devices. Movano’s mission is to empower and inspire consumers to live a healthier, happier life.

The Company’s solutions are being developed to provide vital health information, including heart rate, HRV, sleep, respiration rate, temperature, blood oxygen saturation, steps, calories as well as glucose and blood pressure data, in a variety of form factors to meet individual style needs and give users actionable feedback to improve their quality of life.

On April 28, 2021, the Company established Movano Ireland Limited, organized under the laws of Ireland, as a wholly owned subsidiary of the Company. Operations and activity at the wholly owned subsidiary were not significant for the six months ended June 30, 2022.

Since inception, the Company has engaged in only limited research and development of product candidates and underlying technology. As of June 30, 2022, the Company had not yet completed the development of its product and had not yet recorded any revenues.

In December 2019, a novel coronavirus and the resulting disease (“COVID-19”) was reported, and in January 2020, the World Health Organization (“WHO”) declared it a Public Health Emergency of International Concern. In February 2020, the WHO raised its assessment of the COVID-19 threat from high to very high at a global level due to the continued increase in the number of cases and affected countries, and in March 2020, the WHO characterized COVID-19 as a pandemic. The Company is continuing to ascertain the long-term impact of the COVID-19 pandemic on its business, but given the uncertainty about the situation, the Company cannot estimate the impact to its financial statements from the economic crisis arising from COVID-19.

The Company’s Registration Statement on Form S-1, as amended (Reg. No. 333-252671), was declared effective by the U.S. Securities and Exchange Commission (the “SEC”) on March 23, 2021. The registration statement registered the securities offered in the Company’s initial public offering (“IPO”). In the IPO, the Company sold 9,775,000 shares of common stock at a price to the public of \$5.00 per share, including the full exercise of the underwriters’ option to purchase additional shares. The IPO closed on March 25, 2021 and the underwriters exercised their overallotment option as of March 25, 2021, as a result of which the Company raised net proceeds of \$44.3 million after deducting \$3.3 million in underwriting discounts, commissions, and expenses and \$1.3 million in offering expenses paid by the Company. National Securities Corporation (“NSC”) was the underwriter for the IPO, and also received a warrant related to the IPO, which is discussed in Note 10. No portion of the net proceeds from the IPO were used for payments made by the Company to its directors or officers or persons owning ten percent or more of its common stock or to their associates, or to the Company’s affiliates, other than payments in the ordinary course of business to officers for salaries and to nonemployee directors as compensation for board or board committee service.

The Company has incurred losses from operations and has generated negative cash flows from operating activities since inception. The Company expects to continue to incur net losses for the foreseeable future as it continues the development of its technology. The Company’s ultimate success depends on the outcome of its research and development and commercialization activities, for which it expects to incur additional losses in the future. Through June 30, 2022, the Company has relied primarily on the proceeds from equity offerings to finance its operations. The Company expects to require additional financing to fund its future planned operations, including research and development and commercialization of its products. The Company will likely raise additional capital through the issuance of equity, borrowings, or strategic alliances with partner companies. However, if such financing is not available at adequate levels, the Company would need to reevaluate its operating plans.

Liquidity and Going Concern

The accompanying interim condensed consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Company has incurred significant losses and has an accumulated deficit of \$78.6 million as of June 30, 2022. The Company anticipates incurring additional losses until such time, if ever, that it can generate significant sales. The Company’s existence is dependent upon management’s ability to obtain additional funding sources. These circumstances raise substantial doubt about the Company’s ability to continue as a going concern within one year after the date that the financial statements are issued.

Adequate additional financing may not be available to the Company on acceptable terms, or at all. If the Company is unable to raise additional capital and/or enter into strategic alliances when needed or on attractive terms, it would be forced to delay, reduce, or eliminate its product or any commercialization efforts. There can be no assurance that the Company’s efforts will result in the resolution of the Company’s liquidity needs. The accompanying interim condensed consolidated financial statements do not include any adjustments that might result should the Company be unable to continue as a going concern.

Movano Inc.
Notes to Condensed Consolidated Financial Statements
For the three months and six months ended June 30, 2022 and 2021
(Unaudited)

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements include the accounts of the Company and its wholly owned subsidiary and have been prepared in accordance with U.S. generally accepted accounting principles (GAAP) for interim financial information and in accordance with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. Accordingly, they do not include all the information and footnotes required by GAAP for complete financial statements. The unaudited condensed consolidated financial statements have been prepared on the same basis as the annual financial statements. In the opinion of management, the accompanying unaudited condensed consolidated financial statements reflect all adjustments (consisting only of normal recurring adjustments) considered necessary for a fair presentation. Intercompany transactions are eliminated in the condensed consolidated financial statements. These financial statements should be read in conjunction with the audited financial statements and notes thereto for the preceding fiscal year contained in the Company's Annual Report on Form 10-K filed on March 30, 2022 with the United States Securities and Exchange Commission (the SEC).

The results of operations for the three six months ended June 30, 2022 are not necessarily indicative of the results to be expected for the year ending December 31, 2022. The condensed consolidated balance sheet as of December 31, 2021 has been derived from audited financial statements at that date but does not include all the information required by GAAP for complete financial statements.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of expenses during the reporting periods.

Significant estimates and assumptions reflected in these condensed consolidated financial statements include, but are not limited to, the accrual of research and development expenses, the valuation of common stock, stock options and warrants, the valuation of the embedded redemption derivative liability and income taxes. Estimates are periodically reviewed considering changes in circumstances, facts, and experience. Changes in estimates are recorded in the period in which they become known. Actual results could differ from those estimates or assumptions.

Segment Information

Operating segments are defined as components of an enterprise about which separate discrete information is available for evaluation by the chief operating decision maker, or decision-making group, in deciding how to allocate resources and in assessing performance. The Company views its operations and manages its business in one segment. The Company's chief operating decision maker is the Chief Executive Officer.

Cash, Cash Equivalents and Short-term Investments

The Company invests its excess cash primarily in money market funds, commercial paper and short-term debt securities. The Company considers all highly liquid investments with an original maturity of three months or less to be cash equivalents. The Company classifies all marketable securities for use in current operations, even if the security matures beyond 12 months, and presents them as short-term investments in the condensed consolidated balance sheets.

Movano Inc.
Notes to Condensed Consolidated Financial Statements
For the three months and six months ended June 30, 2022 and 2021
(Unaudited)

The Company determines the appropriate classification of marketable securities at the time of purchase and reevaluates such designation at each balance sheet date. The Company has classified and accounted for the purchased marketable securities as available-for-sale. After considering the Company's capital preservation objectives, as well as its liquidity requirements, the Company may sell securities prior to their stated maturities. The Company carries its available-for-sale short-term investments at fair value. The Company reports the unrealized gains and losses, net of taxes, as a component of stockholders' equity, except for unrealized losses determined to be credit-related, which are recorded as other income (expense), net in the condensed consolidated statements of operations and comprehensive loss and reports an allowance for credit losses in short-term investments on the balance sheet, if any. The Company determines any realized gains or losses on the sale of short-term investments on a specific identification method and records such gains and losses as a component of other income (expense), net. Interest earned on cash, cash equivalents, and short-term investments is recorded in interest and other income, net in the accompanying condensed consolidated statements of operations and comprehensive loss and was insignificant during the three and six months ended June 30, 2022 and 2021.

The Company's investment policy only allows purchases of high credit quality instruments and provides guidelines on concentrations and credit quality to ensure minimum risk of loss. The Company evaluates whether the unrealized loss on available-for-sale short-term investments is the result of the credit worthiness of the securities it held, or other non-credit-related factors such as liquidity by reviewing a number of factors such as the implied yield of the corporate note based on the market price, the nature of the invested entity's business or industry, market capitalization relative to debt, changes in credit ratings, and the market prices of the instruments subsequent to the period end.

Concentrations of Credit Risk and Off-Balance Sheet Risk

Cash and cash equivalents are financial instruments that are potentially subject to concentrations of credit risk. All cash and cash equivalents are held in United States financial institutions. Cash equivalents consist of interest-bearing money market accounts. The amounts deposited in the money market accounts exceed federally insured limits. The Company has not experienced any losses related to this account and believes the associated credit risk to be minimal due to the financial condition of the depository institutions in which those deposits are held.

The Company has no financial instruments with off-balance sheet risk of loss.

Convertible Financial Instruments

The Company bifurcates embedded redemption and conversion options from their host instruments and accounts for them as freestanding derivative financial instruments at fair value if certain criteria are met. The criteria include circumstances in which (a) the economic characteristics and risks of the embedded derivative instrument are not clearly and closely related to the economic characteristics and risks of the host contract, (b) the hybrid instrument that embodies both the embedded derivative instrument and the host contract is not re-measured at fair value under otherwise applicable GAAP with changes in fair value reported in earnings as they occur and (c) a separate instrument with the same terms as the embedded derivative instrument would be considered a derivative instrument. Debt discounts under these arrangements are amortized to interest expense using the interest method over the earlier of the term of the related debt or their earliest date of redemption.

Movano Inc.
Notes to Condensed Consolidated Financial Statements
For the three months and six months ended June 30, 2022 and 2021
(Unaudited)

From time to time, the Company issues convertible financial instruments to nonemployees in payment for services that are provided. Until the services are completely rendered, the Company will expense the principal and any interest earned prior to the service completion to the representative expense account for the services performed and will record a noncurrent liability for the expected amount of the principal balance. Upon completion of the services, the Company will reclassify the noncurrent liability balance to the balance of an outstanding convertible financial instrument and assess the embedded redemption and conversion options that are applicable at that time.

Income Taxes

The Company accounts for income taxes using the asset and liability method. Under this method, deferred tax assets and liabilities are determined based on differences between the financial statement and tax basis of assets and liabilities and net operating loss and credit carryforwards using enacted tax rates in effect for the year in which the differences are expected to reverse. Valuation allowances are established when necessary to reduce deferred tax assets to the amounts expected to be realized. As the Company maintained a full valuation allowance against its deferred tax assets, the changes resulted in no provision or benefit from income taxes during the three and six months ended June 30, 2022 and 2021.

For interim periods, the Company estimates its annual effective income tax rate and applies the estimated rate to the year-to-date income or loss before income taxes. The Company computes the tax provision or benefit related to items reported separately and recognizes the items net of their related tax effect in the interim periods in which they occur. The Company recognizes the effect of changes in enacted tax laws or rates in the interim periods in which the changes occur.

Stock-Based Compensation

The Company measures equity classified stock-based awards granted to employees, non-employee directors, and nonemployees based on the estimated grant date fair value of the awards. For stock-based awards with only service conditions, compensation expense is recognized over the requisite service period, which is generally the vesting period of the respective award, using the straight-line method. For stock-based awards that include performance conditions, compensation expense is not recognized until the performance condition is probable to occur. The Company uses the Black-Scholes option pricing model to estimate the fair value of its stock-based awards. The Black-Scholes option pricing model requires the Company to make assumptions and judgements about the variables used in the calculations, including the fair value of common stock, expected term, expected volatility of the Company's common stock, risk-free interest rate and expected dividend yield. The Company accounts for forfeitures of stock-based awards as they occur.

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Early Exercised Stock Option Liability

Upon the early exercise of stock options by employees, the Company records as a liability the purchase price of unvested common stock that the Company has a right to repurchase if and when the employment of the stockholder terminates before the end of the requisite service period. The proceeds originally recorded as a liability are reclassified to additional paid-in capital as the Company's repurchase right lapses.

Net Loss per Share Attributable to Common Stockholders

Basic net loss per share attributable to common stockholders is calculated by dividing the net loss attributable to common stockholders by the weighted average number of shares of common stock outstanding during the period, without consideration for common stock equivalents. The net loss attributable to common stockholders is calculated by adjusting the net loss of the Company for the accretion on the Series A and B redeemable convertible preferred stock and cumulative dividends on Series A and B redeemable convertible preferred stock. Diluted net loss per share attributable to common stockholders is the same as basic net loss per share attributable to common stockholders, since the effects of potentially dilutive securities are antidilutive.

Recently Adopted Accounting Pronouncements

Adoption of ASU No. 2016-02

The Company adopted FASB's ASU No. 2016-02, *Leases* ("ASC 842"), as of January 1, 2022, using the modified retrospective approach which provides a method for recording existing leases at the beginning of the period of adoption.

In addition, the Company elected the package of practical expedients and other expedients permitted under the transition guidance within the new standard, which among other things, allowed the Company to carry forward the historical lease classification and not to restate the comparative periods prior to the adoption and to combine lease and non-lease components for all asset classes. The Company made an accounting policy election not to recognize right of use assets and lease liabilities for leases with a lease term of 12 months or less, including renewal options that are reasonably certain to be exercised, that also do not include an option to purchase the underlying asset that is reasonably certain of exercise. Instead, lease payments for these leases are recognized as lease expense on a straight-line basis over the lease term. The disclosures required under ASC 842 are not presented for periods before the date of adoption. For the comparative periods prior to adoption, the Company presented the disclosures which were required under the previous accounting guidance. The adoption of the new standard did not have a material impact on the Company's results of operations or cash flows.

Operating lease right of use ("ROU") assets represent the right to use the leased asset for the lease term and operating lease liabilities are recognized based on the present value of the future minimum lease payments over the lease term at commencement date. Adoption of the new standard resulted in the recording of operating lease liabilities of \$429,000 and ROU assets of \$380,000 as of January 1, 2022. The difference between the ROU assets and lease liabilities represents the net book value of deferred rent recognized as of December 31, 2021, which was adjusted against the ROU asset upon adoption. The ROU asset is included in other assets on the Company's condensed consolidated balance sheet. At adoption, operating lease liabilities of \$166,000 and \$263,000, respectively, were included in other current liabilities and other noncurrent liabilities on the Company's condensed consolidated balance sheet.

As most leases do not provide an implicit rate, the Company uses an incremental borrowing rate based on the information available at the adoption date in determining the present value of future payments. Lease expense for minimum lease payments is amortized on a straight-line basis over the lease term and is included in research and development expenses and general and administrative expenses in the condensed consolidated statements of operations and comprehensive loss. Variable lease payments for common area maintenance, property taxes and other operating expenses are recognized as expense in the period when the changes in facts and circumstances on which the variable lease payments are based occur.

NOTE 3 – FAIR VALUE MEASUREMENTS

Financial assets and liabilities are recorded at fair value. The Company uses a three-level hierarchy, which prioritizes, within the measurement of fair value, the use of market-based information over entity-specific information for fair value measurements based on the nature of inputs used in the valuation of an asset or liability as of the measurement date. Fair value focuses on an exit price and is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The inputs or methodology used for valuing financial instruments are not necessarily an indication of the risk associated with investing in those financial instruments.

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A three-tier fair value hierarchy is used to prioritize the inputs in measuring fair value as follows:

- Level 1** – Quoted prices in active markets for identical assets or liabilities.
- Level 2** – Quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable, either directly or indirectly.
- Level 3** – Significant unobservable inputs that cannot be corroborated by market data.

The Company measures its cash equivalents, short-term investments and derivative financial instruments at fair value. The Company classifies its cash equivalents and short-term investments within Level 1 or Level 2 because the Company values these investments using quoted market prices or alternative pricing sources and models utilizing market observable inputs. The fair value of the Company's Level 1 financial assets is based on quoted market prices of the identical underlying security. The fair value of the Company's Level 2 financial assets is based on inputs that are directly or indirectly observable in the market, including the readily-available pricing sources for the identical underlying security that may not be actively traded.

The asset's or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement.

Changes in fair value measurements categorized within Level 3 of the fair value hierarchy are analyzed each period based on changes in estimates or assumptions and recorded as appropriate. On December 31, 2020, the warrants related to the Series A preferred stock issuance, the Series B preferred stock issuance, and the convertible promissory notes and the derivative liability related to the issuance of convertible promissory notes were classified within level 3 of the valuation hierarchy. However, these instruments are not present on March 31, 2021 in light of accounting ramifications of the IPO, which are discussed further in Note 7 and Note 8.

The carrying amounts of prepaid expenses, payroll tax credit, accounts payable and accrued liabilities approximate fair value due to the short-term nature of these instruments.

The following tables provide a summary of the assets and liabilities that are measured at fair value on a recurring basis as of June 30, 2022 and December 31, 2021 (in thousands).

Fair Value Measurements

	June 30, 2022			
	Fair Value	Level 1	Level 2	Level 3
Cash equivalents:				
Money market funds	\$ 15,620	\$ 15,620	\$ —	\$ —
Total cash equivalents	\$ 15,620	\$ 15,620	\$ —	\$ —
Short-term investments:				
Certificates of deposit	\$ 249	\$ —	\$ 249	\$ —
Commercial paper	550	—	550	—
Corporate notes	3,415	—	3,415	—
Municipal bonds	—	—	—	—
Total short-term investments	\$ 4,214	\$ —	\$ 4,214	\$ —
December 31, 2021				
	Fair Value	Level 1	Level 2	Level 3
Cash equivalents:				
Money market funds	\$ 16,830	\$ 16,830	\$ —	\$ —
Total cash equivalents	\$ 16,830	\$ 16,830	\$ —	\$ —
Short-term investments:				
Certificates of deposit	\$ 250	\$ —	\$ 250	\$ —
Commercial paper	2,210	—	2,210	—
Corporate notes	12,024	—	12,024	—
Municipal bonds	1,437	—	1,437	—
Total short-term investments	\$ 15,921	\$ —	\$ 15,921	\$ —

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NOTE 4 – CASH, CASH EQUIVALENTS AND SHORT-TERM INVESTMENTS

Cash, cash equivalents and short-term investments consist of the following (in thousands):

	<u>June 30, 2022</u>	<u>December 31, 2021</u>
Cash and cash equivalents:		
Cash	\$ 1,469	\$ 845
Money market funds	15,620	16,830
Total cash and cash equivalents	\$ 17,089	\$ 17,675
Short-term investments:		
Certificates of deposit	\$ 249	\$ 250
Commercial paper	550	2,210
Corporate notes	3,415	12,024
Municipal bonds	—	1,437
Total short-term investments	\$ 4,214	\$ 15,921

The contractual maturities of short-term investments classified as available-for-sale as of June 30, 2022 were as follows (in thousands):

	<u>June 30, 2022</u>
Due within one year	\$ 4,214
Due after one year through five years	—
Total	\$ 4,214

The following table summarizes the unrealized gains and losses related to short-term investments classified as available-for-sale on the Company's condensed consolidated balance sheet (in thousands):

	<u>June 30, 2022</u>			
	<u>Amortized Cost</u>	<u>Gross Unrealized Gains</u>	<u>Gross Unrealized Losses</u>	<u>Aggregate Estimated Fair Value</u>
Short-term investments:				
Certificates of deposit	\$ 250	\$ —	\$ (1)	\$ 249
Commercial paper	550	—	—	550
Corporate notes	3,429	—	(14)	3,415
Municipal bonds	—	—	—	—
Total short-term investments	\$ 4,229	\$ —	\$ (15)	\$ 4,214
	<u>December 31, 2021</u>			
	<u>Amortized Cost</u>	<u>Gross Unrealized Gains</u>	<u>Gross Unrealized Losses</u>	<u>Aggregate Estimated Fair Value</u>
Short-term investments:				
Certificates of deposit	\$ 250	\$ —	\$ —	\$ 250
Commercial paper	2,210	—	—	2,210
Corporate notes	12,035	—	(11)	12,024
Municipal bonds	1,437	—	—	1,437
Total short-term investments	\$ 15,932	\$ —	\$ (11)	\$ 15,921

As of June 30, 2022 and December 31, 2021, the gross unrealized loss on available-for-sale short-term investments was immaterial and there were no expected credit losses related to the Company's available-for-sale debt securities. The Company has determined that all unrealized losses are temporary. As of June 30, 2022 and December 31, 2021, no allowance for credit losses in short-term investments was recorded.

No sales of available-for-sale short-term investments occurred during the three and six months ended June 30, 2022 and 2021.

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NOTE 5 – PROPERTY AND EQUIPMENT

Property and equipment, net, as of June 30, 2022 and December 31, 2021, consisted of the following (in thousands):

	June 30, 2022	December 31, 2021
Office equipment and furniture	\$ 263	\$ 237
Software	131	115
Test equipment	233	278
Total property and equipment	627	630
Less: accumulated depreciation	(153)	(101)
Total property and equipment, net	<u>\$ 474</u>	<u>\$ 529</u>

Total depreciation and amortization expense related to property and equipment for the three and six months ended June 30, 2022 was approximately \$38,000 and \$73,000, respectively. Total depreciation and amortization expense related to property and equipment for the three and six months ended June 30, 2021 was approximately \$17,000 and \$18,000, respectively.

NOTE 6 – OTHER CURRENT LIABILITIES

Other current liabilities as of June 30, 2022 and December 31, 2021 consisted of the following (in thousands):

	June 30, 2022	December 31, 2021
Accrued research and development	\$ 199	\$ 289
Accrued compensation	1,562	2,211
Accrued vacation	353	276
Lease liabilities, current portion	218	—
Other	303	131
	<u>\$ 2,635</u>	<u>\$ 2,907</u>

NOTE 7 – CONVERTIBLE PROMISSORY NOTES

On various dates between February 2020 and December 2020, the Company received total proceeds of approximately \$11.8 million from the issuance of subordinated convertible promissory notes (“Convertible Notes”) to investors. The Convertible Notes accrued interest at 4% per year and the principal balance of the Convertible Notes, plus all accrued interest would have been due on February 28, 2022 (the Maturity Date).

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The Convertible Notes were convertible upon the occurrence of certain events, including upon a change in control or a next equity financing. The conversion features are described as follows:

Conversion Event	Description	Conversion Price
Automatic Conversion – Next Qualified Equity Financing	Upon the closing of a Next Qualified Equity Financing (defined as greater than \$5,000,000), the Convertible Notes are converted into shares issued equal to the outstanding balance divided by the Conversion Price.	An amount equal to the lower of (i) 80% of the lowest per-share selling price of such stock sold by the Company at the Next Qualified Equity Financing or (ii) the implied per share price determined by dividing \$60,000,000 by the total number of Common Stock Equivalents (defined as fully diluted common shares for all outstanding securities, excluding common shares reserved for issuance or exercise of options or grants in the future) immediately prior to Next Qualified Equity Financing closing.
Automatic Conversion – Change of Control (defined as consolidation or merger of the Company or transfer of a majority of share ownership or disposition of substantially all assets of the Company)	If at any time before payment or conversion of the balance, the Company effects a Change of Control, all of the balance outstanding immediately prior to such Change of Control will automatically convert into the most senior series of Preferred Stock outstanding immediately prior to such Change of Control at the Conversion Price.	An amount equal to the implied per share price determined by dividing \$60,000,000 by the total number of Common Stock Equivalents immediately prior to such Change of Control.
Automatic Conversion – Maturity Date	If the Company has not paid or otherwise converted the entire balance before the Maturity Date, then on the Maturity Date, all of the balance then outstanding will automatically convert into the most senior series of Preferred Stock outstanding as of the Maturity Date at the Conversion Price then in effect.	An amount equal to the implied per share price determined by dividing \$60,000,000 by the total number of Common Stock Equivalents as of the Maturity Date.
Automatic Conversion – IPO	If at any time before payment or conversion of the balance, the Company consummates an IPO, all of the balance outstanding immediately prior to the IPO will automatically convert into Common Stock at the Conversion Price.	An amount equal to the lower of (i) 80% of the lowest per-share selling price of the Common Stock sold by the Company in an IPO or (ii) the implied per share price determined by dividing \$60,000,000 by the total number of Common Stock Equivalents immediately prior to closing of an IPO.
Optional Conversion	If at any time while the Convertible Notes are still outstanding the Company sells stock in a single transaction or in a series of related transactions that does not constitute a Next Qualified Equity Financing (and thus is defined as a Non-qualified Financing), then, at the closing of the Nonqualified Financing, the balance then outstanding may be converted, at the option of the holder, into that number of shares of Non-qualified Preferred Stock (preferred stock sold in the Non-qualified Financing) determined by dividing (i) the balance by (ii) the Conversion Price then in effect.	An amount equal to the lowest per share selling price of Nonqualified Preferred Stock sold by the Company for new cash investment in the Non-Qualified Financing.

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As part of the Convertible Note financing, the Company agreed to issue subordinated convertible promissory notes to nonemployees in exchange for services totaling \$747,000.

During the three months ended March 31, 2021, nonemployee services of \$50,000 were completed, which were recorded as a component of other noncurrent liabilities. In connection with the IPO, a Convertible Note for \$500,000 was issued for nonemployee services and \$300,000 of the nonemployee services that remained to be completed was recorded in prepaid and other current expenses on the condensed consolidated balance sheets. The Company calculated a BCF of approximately \$500,000 upon the issuance of this Convertible Note.

In connection with the Convertible Notes, the Company issued 10,000 and 204,500 warrants to purchase common stock, to a noteholder and its brokers, respectively. The warrants have a five-year life and are initially exercisable into common stock at \$2.97 per share. (See Note 10 – Common Stock Warrants for fair value computation and discussion of the change in the exercise price). During March 2021, 42,220 of these warrants to purchase common stock were cancelled.

Issuance costs and commissions to brokers to obtain the Convertible Notes were recorded as a debt discount in the amount of approximately \$83,000 and \$612,000, respectively.

The Company determined that the terms that would result in Convertible Notes automatically converting at (i) 80% of the lowest per-share selling price of the stock sold by the Company in the Next Qualified Equity Financing or (ii) 80% of the lowest per-share selling price of the Conversion Stock sold by the Company in an IPO are deemed a redemption feature. The Company also concluded that those redemption features require bifurcation from the Convertible Notes and subsequent accounting in the same manner as a freestanding derivative. Accordingly, subsequent changes in the fair value of these redemption features are measured at each reporting period and recognized in the condensed consolidated statements of operations and comprehensive loss.

The sum of the fair value of the warrants, the fair value of the embedded redemption derivative liability, issuance costs, BCF and commission payments for the Convertible Notes were recorded as debt discounts to be amortized to interest expense over the respective term using the effective interest method. During the three and six months ended June 30, 2021, the Company recognized interest expense of approximately \$0 and \$0.8 million, respectively, from the accretion of those debt discounts.

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The Convertible Notes automatically converted upon the closing of the IPO at the implied per share price determined by dividing \$60,000,000 by the total number of Common Stock Equivalents immediately prior to the closing of the IPO. The outstanding principal (\$12.5 million) and interest due (\$0.4 million) under the Convertible Notes, in an aggregate amount of \$12.9 million, was converted into 5,015,494 shares of the Company's common stock at the implied per share conversion of \$2.5736. The carrying value of the Convertible Notes was credited to common stock and additional paid-in capital on the condensed consolidated balance sheet. The remaining unamortized discount of \$0.4 million was recorded to additional paid-in capital and no gain or loss was recognized on the conversion. The remaining unamortized discount related to the BCF of \$0.5 million was recognized immediately as interest expense in the condensed consolidated statement of operations and comprehensive loss.

Derivative Liability

As described above, the redemption provisions embedded in the Convertible Notes required bifurcation and measurement at fair value as a derivative. The fair value of the Convertible Note embedded redemption derivative liability was calculated by determining the value of the debt component of the Convertible Notes at various conversion or maturity dates using a Probability Weighted Expected Return valuation method. The fair value calculation placed greater probability on the occurrence of the conversion or the maturity date scenario, with little or no weight given to other scenarios. The fair value of the embedded redemption derivative liability is significantly influenced by the discount rate, the remaining term to maturity and the Company's assumptions related to the probability of a qualified financing or no financing prior to maturity. The Financing Date is the estimated date of an automatic conversion as the result of a Next Qualified Equity Financing or an IPO.

The embedded redemption derivative liability no longer had significant value as of the date of the Company's IPO since the conversion of the Convertible Notes occurred via a redemption feature that was not bifurcated as a derivative. Upon the conversion of the Convertible Notes at the IPO, the Company recorded a final change in the fair value of the derivative liability of \$0.1 million in the condensed consolidated statement of operations and comprehensive loss, and the derivative liability was extinguished.

The changes in the fair value of the derivative liability for the three and six months ended June 30, 2021 was the same and is presented as follows (in thousands):

Warrant Issuance	December 31, 2020	Fair Value at issuance date	Change in fair value	June 30, 2021
Derivative liability	\$ 121	—	(121)	\$ —

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NOTE 8 – REDEEMABLE CONVERTIBLE PREFERRED STOCK

On March 28, 2019, the Company's Second Amended and Restated Certificate of Incorporation was filed with the Delaware Secretary of State which (i) increased the number of shares of common stock the Company is authorized to issue to 22,069,652; (ii) increased the number of shares of preferred stock the Company was authorized to issue to 7,930,348, of which 2,692,253 shares were designated as Series A preferred stock and 5,238,095 shares were designated as Series B preferred stock; (iii) amended and set a fixed conversion price of Series A preferred stock to \$1.40; and (iv) extended the IPO Commitment Date from April 1, 2020 to no later than March 31, 2021.

The Series B preferred stock was measured and recorded at the transaction price net of issuance costs, resulting in an initial value of \$9.3 million. The accretion to the carrying value of the Series B preferred stock was recorded as a charge to additional paid in capital. The accumulated accretion as of the IPO date was \$11.5 million, which resulted in an adjusted Series B preferred stock carrying value of \$20.8 million.

The accretion to the carrying value of the Series A preferred stock was recorded as a charge to additional paid-in capital. The accumulated accretion as of the IPO date was \$8.2 million, which resulted in an adjusted Series A preferred stock carrying value of \$14.5 million.

Upon the IPO, the redeemable convertible preferred stock converted in to 11,436,956 shares of common stock and no shares of redeemable convertible preferred stock remain outstanding.

On March 24, 2021, the Company's Third Amended and Restated Certificate of Incorporation was filed with the Delaware Secretary of State which (i) eliminated the Company's Series A and Series B preferred stock, (ii) increased the authorized number of shares of common stock to 75,000,000 and (iii) authorized 5,000,000 shares of preferred stock at par value of \$0.0001 per share. The significant rights and preferences of the preferred stock will be established by the Company's Board of Directors (the "Board") upon issuance of any such series of preferred stock in the future.

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NOTE 9 – COMMON STOCK

As of June 30, 2022 and December 31, 2021, the Company was authorized to issue 75,000,000 shares of common stock with a par value of \$0.0001 per share. As of June 30, 2022 and December 31, 2021, 32,818,060 and 32,772,060 shares were outstanding.

Conversion of Redeemable Convertible Preferred Stock

In connection with the closing of the IPO, on March 25, 2021, the outstanding shares of the Company’s Series A and Series B redeemable convertible preferred stock were converted into 11,436,956 shares of the Company’s common stock.

Conversion of Convertible Notes

In connection with the funding of the IPO, on March 25, 2021, the principal and interest due under the Company’s Convertible Notes, in an aggregate amount of \$12.9 million, was converted into 5,015,494 shares of the Company’s common stock.

Third Amended and Restated Certificate of Incorporation

In connection with the IPO, the Third Amended and Restated Certificate of Incorporation became effective and authorized 75,000,000 shares of common stock at par value of \$0.0001 per share. Dividends may be declared and paid on the common stock when and if determined by the Board of Directors. Upon liquidation, each common stockholder is entitled to receive an equal portion of the distribution. Each holder of common stock will have one vote in respect of each share of common stock held. The rights and privileges listed above will be subject to preferential rights of any then outstanding shares of preferred stock.

At the IPO date, the Company issued 17,000 shares of common stock for nonemployee services valued at \$85,000.

Common stock reserved for future issuance at June 30, 2022 is summarized as follows:

Warrants to purchase common stock	1,938,143
Stock options outstanding	6,869,512
Stock options available for future grants	6,791,447
Total	<u>15,599,102</u>

Restricted Stock Purchase Agreements

In 2018, 400,000 shares were issued to the Company’s founder at inception pursuant to a Restricted Stock Purchase Agreement. The Restricted Stock Purchase Agreement stipulates that in the event of the voluntary or involuntary termination of the Company’s founder’s continuous service status for any reason (including death or disability), with or without cause, the Company or its assignees(s) shall have an option (“Repurchase Option”) to repurchase all or any portion of the shares held by the Purchaser as of the termination date which have not yet been released from the Company’s Repurchase Option at the original purchase price of \$0.0125 per share. Shares are to be released from the Repurchase Option over four years. The initial 12/48ths of the shares were released on January 30, 2019, and an additional 1/48th of the shares are being released monthly thereafter. As of June 30, 2022 and December 31, 2021, none and 8,333 of the shares issued to the Company’s founder remain subject to the Repurchase Option, respectively. These shares were originally purchased by the Company’s founder at \$0.0125 per share.

In 2018, 3,640,000 shares were also issued pursuant to a Restricted Stock Purchase Agreement. The holders of these shares are considered related parties of the Company because the holders are directly related either to the founder or to the legal counsel of the Company. The same terms described above apply to these issuances. As of June 30, 2022 and December 31, 2021, none and 75,833 of the shares issued to these holders remain subject to the Repurchase Option, respectively. These shares were originally purchased by the holders at \$0.0125 per share.

Early Exercised Stock Option Liability

During the three and six months ended June 30, 2022, no shares were issued upon the early exercise of common stock options. During the three and six months ended June 30, 2021, none and 50,000 shares, respectively, were issued upon the early exercise of common stock options. The Exercise Notice (Early Exercise) Agreement states that the Company has the option to repurchase all or a portion of the unvested shares in the event of the separation of the holder from service to the Company. The shares continue to vest in accordance with the original vesting schedules of the former option agreements.

As of June 30, 2022 and December 31, 2021, the Company has recorded a repurchase liability for approximately \$205,000 and \$281,000 for 410,522 and 567,397 shares that remain unvested, respectively. The weighted average remaining vesting period is approximately 1.6 years.

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NOTE 10 – COMMON STOCK WARRANTS

Preferred A Placement Warrants

In connection with the closing of the Series A preferred stock offering, the Company issued warrants (“Preferred A Placement Warrants”) to purchase a total of 133,648 shares of its common stock to NSC on March 14, 2018 and April 23, 2018. The Preferred A Placement Warrants included an adjustment provision pursuant to which upon completion of the IPO, and the conversion of the Series A preferred stock in connection therewith, the number of shares issuable upon exercise of the warrants was adjusted to be equal to 10% of the aggregate number of common stock shares issued by the Company upon conversion of 1,336,485 shares of Series A preferred stock (the “Preferred A Adjustment Provision”). In August 2019, the Preferred A Placement Warrants were amended and reissued and the total number of warrant shares increased to 242,847.

In connection with the IPO, pursuant to the Preferred A Adjustment Provision variable settlement provision, the number of shares of common stock subject to the Preferred A Placement Warrants settled, resulting in an additional 50,195 shares of common stock.

Preferred A Lead Investor Warrants

During February 2021, a total of 52,500 warrants for common stock were issued to advisors to the Company at a weighted average exercise price of \$0.0125 per share. The resulting fair value of the warrants for common stock is not significant.

Preferred B Placement Warrants

On April 16, 2019, in connection with the Series B preferred stock offering, the Company issued warrants (“Preferred B Placement Warrants”) to purchase 414,270 shares of its common stock to NSC, Newbridge Securities Corporation, and five individuals at LVP. The Preferred B Placement Warrants have a term of five years and their exercise price is equal to \$2.10, the conversion price of Series B preferred stock. The Preferred B Placement Warrants included an adjustment provision pursuant to which upon completion of the IPO, and the conversion of the Series B preferred stock in connection therewith, the number of shares issuable upon exercise of the warrants was adjusted to be equal to 10% of the aggregate number of common stock shares issued by the Company upon conversion of 4,142,270 shares of Series B preferred stock (the “Preferred B Adjustment Provision”).

In connection with the IPO, pursuant to the Preferred B Adjustment Provision variable settlement provision, the number of shares of common stock subject to the Preferred B Placement Warrants settled, resulting in an additional 49,528 shares of common stock.

Convertible Note Placement Warrants

In connection with the Convertible Notes, the Company issued 10,000 and 214,050 warrants to purchase common stock, to a noteholder and its brokers, respectively. The warrants have a five-year life and are initially exercisable into common stock at \$2.97 per share with the warrants ultimately being exercisable into common stock at the final Conversion Price of the Convertible Notes. When the Convertible Notes converted at the IPO date as described in Note 8, the exercise price of the warrants was adjusted to equal the Conversion Price, which is \$2.57. During March 2021, 42,220 of these warrants to purchase common stock were cancelled.

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Underwriter Warrants

In connection with the IPO, the Company issued the underwriter a warrant to purchase shares of common stock equal to 9.79% of the shares of common stock sold in the IPO or 956,973 shares. The warrant is exercisable at \$6.00 per share and has a 5-year term. Additionally, the underwriter has contractually agreed that it will not sell, transfer, assign, pledge, or hypothecate this warrant or the securities underlying this warrant, nor will it engage in any hedging, short sale, derivative, put, or call transaction that would result in the effective economic disposition of this warrant or the underlying securities for a period of 540 days (approximately 18 months) from the IPO.

The following is a summary of the Company's warrant activity for the six months ended June 30, 2022:

Warrant Issuance	Issuance	Exercise Price	Outstanding, December 31, 2021	Granted	Exercised	Canceled/ Expired	Variable Settlement Provision Adjustment	Outstanding, June 30, 2022	Expiration
Preferred A Placement Warrants	March and April 2018 and August 2019	\$ 1.40	293,042	—	—	—	—	293,042	March and April 2023
Preferred A Lead Investor Warrants	February 2021	\$ 0.0125	52,500	—	—	—	—	52,500	March 2023
Preferred B Placement Warrants	April 2019	\$ 2.10	463,798	—	—	—	—	463,798	April 2024
Convertible Notes Placement Warrants	August 2020	\$ 2.57	171,830	—	—	—	—	171,830	August 2025
Underwriter Warrants	March 2021	\$ 6.00	956,973	—	—	—	—	956,973	March 2026
			<u>1,938,143</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>1,938,143</u>	

The following is a summary of the Company's warrant activity for the six months ended June 30, 2021:

Warrant Issuance	Issuance	Exercise Price	Outstanding, December 31, 2020	Granted	Exercised	Canceled/ Expired	Variable Settlement Provision Adjustment	Outstanding, June 30, 2021	Expiration
Preferred A Placement Warrants	March and April 2018 and August 2019	\$ 1.40	242,847	—	—	—	50,195	293,042	March and April 2023
Preferred A Lead Investor Warrants	February 2021	\$ 0.0125	—	52,500	—	—	—	52,500	March 2023
Preferred B Placement Warrants	April 2019	\$ 2.10	414,270	—	—	—	49,528	463,798	April 2024
Convertible Notes Placement Warrants	August 2020	\$ 2.57	214,050	—	—	(42,220)	—	171,830	August 2025
Underwriter Warrants	March 2021	\$ 6.00	—	956,973	—	—	—	956,973	March 2026
			<u>871,167</u>	<u>1,009,473</u>	<u>—</u>	<u>(42,220)</u>	<u>99,723</u>	<u>1,938,143</u>	

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Warrants Classified as Liabilities

Preferred A Placement Warrants and Preferred B Placement Warrants

The Preferred A Placement Warrants and Preferred B Placement Warrants were initially classified as a derivative liability because their variable terms did not qualify these as being indexed to the Company's own common stock and will be measured at fair value on a recurring basis.

As a result of the conversion of the Preferred Stock into common stock in connection with the IPO, and the related impact of the Preferred A Adjustment Provision and the Preferred B Adjustment Provision, the number of warrant shares that are convertible is no longer variable. Accordingly, the Preferred A Placement Warrants and Preferred B Placement Warrants were determined to be indexed to the Company's own common stock and will no longer be measured at fair value on a recurring basis. Instead, the Preferred A Placement Warrants and the Preferred B Placement Warrants were determined to be equity instruments, and the liability was recorded at fair value with the change in fair value recorded in the condensed consolidated statement of operations and comprehensive loss and reclassified to additional paid-in capital at their estimated fair value at the IPO date.

Convertible Notes Placement Warrants

The Convertible Notes Placement Warrants were classified as a derivative liability because the exercise price was variable, thus these did not qualify as being indexed to the Company's own common stock and were measured at fair value on a recurring basis.

As a result of the conversion of the Convertible Notes into common stock in connection with the IPO, the exercise price is no longer variable. Accordingly, the Convertible Notes Placement Warrants were determined to be indexed to the Company's own common stock and will no longer be measured at fair value on a recurring basis. Instead the Convertible Notes Placement Warrants were determined to be equity instruments, and the liability was recorded at fair value with the change in fair value recorded in the condensed consolidated statement of operations and comprehensive loss and reclassified to additional paid-in capital at their estimated fair value at the IPO date.

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Estimated Fair Value of Outstanding Warrants Classified as Liabilities

The estimated fair value of outstanding warrants classified as liabilities is determined at each balance sheet date. Any decrease or increase in the estimated fair value of the warrant liability since the most recent balance sheet date is recorded in the condensed consolidated statements of operations and comprehensive loss as a change in fair value of warrant liability.

There were no warrants classified as liabilities outstanding as of June 30, 2022 and December 31, 2021.

The changes in fair value of the outstanding warrants classified as liabilities for the six months ended June 30, 2021 were as follows (in thousands):

	Warrant liability, December 31, 2020	Fair value of warrants granted	Fair value of warrants exercised	Change in fair value of warrants	Reclassified to additional paid-in capital	Warrant liability, June 30, 2021
Warrant Issuance						
Preferred A Placement Warrants	\$ 518	\$ —	\$ —	\$ 575	\$ (1,093)	\$ —
Preferred B Placement Warrants	708	—	—	800	(1,508)	—
Convertible Notes Placement Warrants	323	-	-	206	(529)	—
	<u>\$ 1,549</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 1,581</u>	<u>\$ (3,130)</u>	<u>\$ —</u>

The fair values of the outstanding warrants accounted for as liabilities at the IPO date are calculated using the Black-Scholes option pricing model with the following assumptions:

Warrant Issuance	Black-Scholes Fair Value Assumptions at IPO Date			
	Dividend Yield	Expected Volatility	Risk-Free Interest Rate	Expected Life
Preferred A Placement Warrants	—%	59.21%	0.14%	2.0 years
Preferred B Placement Warrants	—%	58.51%	0.30%	3.0 years
Convertible Note Placement Warrants	—%	52.28%	0.82%	4.4 years

Upon the conversion of the redeemable convertible preferred stock and the Convertible Notes into common stock at the IPO date, the estimated fair value of the outstanding warrants accounted for as liabilities of \$3.1 million was reclassified to additional paid-in capital.

Warrants Classified as Equity

Certain warrants are classified as equity instruments since they do not meet the characteristics of a liability or a derivative and are recorded at fair value on the date of issuance using the Black-Scholes option pricing model with the following assumptions. The fair value as determined at the issuance date is recorded as an issuance cost of the related stock. There were no warrants classified as equity issued during the three and six months ended June 30, 2022, nor during the three months ended June 30, 2021. Those warrants and the assumptions used to calculate the fair value at issuance are as follows for the warrants issued during the six months ended June 30, 2021:

Warrant Issuance	Black-Scholes Fair Value Assumptions					
	Issuance Date	Fair Value (in 000's)	Dividend Yield	Expected Volatility	Risk-Free Interest Rate	Expected Life
Underwriter Warrants	March 2021	\$ 2,349	—%	52.58%	0.82%	5.0 years

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NOTE 11 – STOCK-BASED COMPENSATION

2019 Equity Incentive Plan

Effective as of November 18, 2019, the Company adopted the 2019 Omnibus Incentive Plan (“2019 Plan”) administered by the Board. The 2019 Plan provides for the issuance of incentive stock options, non-statutory stock options, and restricted stock awards, for the purchase of up to a total of 4,000,000 shares of the Company’s common stock to employees, directors, and consultants and replaces the previous plan. The Board or a committee of the Board has the authority to determine the amount, type, and terms of each award. The options granted under the 2019 Plan generally have a contractual term of ten years and a vesting term of four years with a one-year cliff. The exercise price for options granted under the 2019 Plan must generally be at least equal to 100% of the fair value of the Company’s common stock at the date of grant, as determined by the Board. The incentive stock options granted under the 2019 Plan to 10% or greater stockholders must have an exercise price at least equal to 110% of the fair value of the Company’s common stock at the date of grant, as determined by the Board, and have a contractual term of ten years.

In connection with the closing of the IPO, effective as of March 25, 2021 the 2019 Plan was amended and restated as a result of which the aggregate number of shares of common stock that may be issued pursuant to the 2019 Plan was increased from 6,000,000 to 7,400,000.

On April 15, 2022, the Board approved, subject to stockholder approval, an increase in the aggregate number of shares of common stock that may be issued pursuant to the 2019 Plan from 7,400,000 to 13,400,000. On June 21, 2022, the stockholders approved this increase.

As of June 30, 2022, the Company had 5,561,447 shares available for future grant pursuant to the 2019 Plan.

2021 Employment Inducement Plan

On September 15, 2021 the Company’s Board adopted the Movano, Inc. 2021 Inducement Award Plan (the “Inducement Plan”) without stockholder approval pursuant to Rule 5635(c)(4) of the Nasdaq Stock Market LLC listing rules (“Rule 5635(c)(4)”). In accordance with Rule 5635(c)(4), awards under the Inducement Plan may only be made to a newly hired employee who has not previously been a member of the Company’s Board, or an employee who is being rehired following a bona fide period of non-employment by the Company or a subsidiary, as a material inducement to the employee’s entering into employment with the Company or its subsidiary. An aggregate of 2,000,000 shares of the Company’s common stock have been reserved for issuance under the Inducement Plan.

The Company will continue to grant awards under the 2019 Plan pursuant to the terms thereof.

During the six months ended June 30, 2022, awards totaling 1,015,000 were issued under the Inducement Plan. The exercise price was \$2.60 per share for 720,000 of the inducement stock option awards and for \$2.54 for 295,000 of the inducement stock option awards. All of the inducement stock option awards remain unvested at June 30, 2022.

As of June 30, 2022, the Company had 1,230,000 shares available for future grant under the Inducement Plan.

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Stock Options

Stock option activity for the six months ended June 30, 2022 was as follows (in thousands, except share, per share, and remaining life data):

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Life	Intrinsic Value
Outstanding at December 31, 2021	5,592,137	\$ 2.29	8.6 years	\$ 9,912
Granted	1,670,000	\$ 2.84		
Exercised	(47,000)	\$ 0.41		
Cancelled	(345,625)	\$ 3.37		
Outstanding at June 30, 2022	<u>6,869,512</u>	\$ 2.38	8.5 years	\$ 4,924
Exercisable as of June 30, 2022	<u>3,362,341</u>	\$ 1.57	8.1 years	\$ 4,035
Vested and expected to vest as of June 30, 2022	<u>6,719,312</u>	\$ 2.36	8.5 years	\$ 4,824

The weighted-average grant date fair value of options granted during the six months ended June 30, 2022 and 2021, was \$1.43 and \$2.80, respectively. During the six months ended June 30, 2022 and 2021, 47,000 and 134,531 options were exercised for proceeds of \$19,000 and \$76,000, respectively. The fair value of the 1,006,430 and 402,939 options that vested during the six months ended June 30, 2022 and 2021 was approximately \$2.0 million and \$0.3 million, respectively.

On June 21, 2022, the Company granted an award of 100,000 options to the Company's founder at an exercise price of \$5.00 per share. The options will vest in full upon the shipment of 20,000 product units on or before June 30, 2023. If the shipments have not occurred by June 30, 2023, the options will be cancelled and forfeited. As of June 30, 2022, the Company has not recognized stock compensation expense related to this award as the successful achievement of the performance conditions is not yet probable.

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The Company estimated the fair value of stock options using the Black-Scholes option pricing model. The fair value of the stock options was estimated using the following weighted average assumptions for the six months ended June 30, 2022 and 2021.

	The Six Months Ended June 30,	
	2022	2021
Dividend yield	—%	—%
Expected volatility	61.86%	67.61%
Risk-free interest rate	2.38%	0.74%
Expected life	6.06 years	6.05 years

Dividend Rate—The expected dividend rate was assumed to be zero, as the Company had not previously paid dividends on common stock and has no current plans to do so.

Expected Volatility—The expected volatility was derived from the historical stock volatilities of several public companies within the Company’s industry that the Company considers to be comparable to the business over a period equivalent to the expected term of the stock option grants.

Risk-Free Interest Rate—The risk-free interest rate is based on the interest yield in effect at the date of grant for zero coupon U.S. Treasury notes with maturities approximately equal to the option’s expected term.

Expected Term—The expected term represents the period that the Company’s stock options are expected to be outstanding. The expected term of option grants that are considered to be “plain vanilla” are determined using the simplified method. The simplified method deems the term to be the average of the time-to-vesting and the contractual life of the options. For other option grants not considered to be “plain vanilla,” the Company determined the expected term to be the contractual life of the options.

Forfeiture Rate—The Company recognizes forfeitures when they occur.

The Company has recorded stock-based compensation expense for the three and six months ended June 30, 2022 and 2021 related to the issuance of stock option awards to employees and nonemployees in the condensed consolidated statement of operations and comprehensive loss as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Research and development	\$ 301	\$ 171	\$ 607	\$ 250
General and administrative	460	169	869	445
	<u>\$ 761</u>	<u>\$ 340</u>	<u>\$ 1,476</u>	<u>\$ 695</u>

As of June 30, 2022, unamortized compensation expense related to unvested stock options was approximately \$8.04 million, which is expected to be recognized over a weighted average period of 2.7 years.

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NOTE 12 – COMMITMENTS AND CONTINGENCIES

Operating Leases

As of June 30, 2022, the Company had one office lease for the corporate headquarters and laboratory space.

On April 15, 2021, the Company executed a lease agreement for corporate office space. The lease commenced on May 14, 2021 when the improvements were completed by the landlord and the Company had access to the facility. The lease term is 40 months, and the base rent is approximately \$14,000 per month for the first twelve months, with subsequent escalation provisions for future months. The Company paid a security deposit of approximately \$47,000.

On April 22, 2022, the Company executed an amendment to its corporate office lease agreement for additional corporate office space. The lease term for the additional space is 36 months from the expansion commencement date of June 23, 2022. The base rent is approximately \$5,100 per month for the first twelve months, with subsequent escalation provisions for future months. The Company paid an additional security deposit of approximately \$5,500.

On January 1, 2022, the Company adopted ASC 842. Under this new guidance, lessees are required to recognize assets and liabilities on the balance sheet for the rights and obligations created by all leases. Upon adoption, the Company recognized ROU assets of \$380,000 and corresponding lease liabilities of \$429,000 for the one operating lease of the Company at the adoption date.

The components of lease expense and supplemental cash flow information related to leases as of and for the three and six months ended June 30, 2022 are as follows (in thousands):

	As of June 30, 2022	
Operating leases		\$ 477
Right-of-use assets		\$ 218
Operating lease liabilities - short-term		\$ 302
Operating lease liabilities - long-term		\$ 477

	Three Months Ended June 30, 2022	Six Months Ended June 30, 2022
Lease Cost:		
Operating lease cost	\$ 48	\$ 93
Other Information:		
Cash paid for amounts included in the measurement of lease liabilities	\$ 48	\$ 90
Weighted average remaining lease term - operating leases (in years)	2.5	2.5
Average discount rate - operating lease	10.00%	10.00%

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Future minimum lease payments for the operating lease are as follows as of June 30, 2022 (in thousands):

For the years ending December 31,

2022	\$	118
2023		242
2024		203
2025		27
Total lease payments		590
Less: Interest		(70)
Total operating lease liability	\$	520

Rent expense for the three and six months ended June 30 2021 was \$34,000 and \$48,000, respectively.

Litigation

From time to time, the Company may become involved in various litigation and administrative proceedings relating to claims arising from its operations in the normal course of business. Management is not currently aware of any matters that may have a material adverse impact on the Company's business, financial position, results of operations or cash flows.

Indemnification

The Company enters into standard indemnification agreements in the ordinary course of business. Pursuant to these arrangements, the Company indemnifies, holds harmless and agrees to reimburse the indemnified parties for losses suffered or incurred by the indemnified party, in connection with any trade secret, copyright, patent or other intellectual property infringement claim by any third party with respect to its technology. The term of these indemnification agreements is generally perpetual after the execution of the agreement. The maximum potential amount of future payments the Company could be required to make under these agreements is not determinable because it involves claims that may be made against the Company in the future, but have not yet been made. The Company has not incurred costs to defend lawsuits or settle claims related to these indemnification agreements.

The Company has entered into indemnification agreements with its directors and officers that may require the Company to indemnify its directors and officers against liabilities that may arise by reason of their status or service as directors or officers, other than liabilities arising from willful misconduct of the individual.

No amounts associated with such indemnifications have been recorded as of June 30, 2022.

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NOTE 13 – NET LOSS PER SHARE ATTRIBUTABLE TO COMMON STOCKHOLDERS

The following table computes the computation of the basic and diluted net loss per share attributable to common stockholders during the three and six months ended June 30, 2022 and 2021 as follows (in thousands, except share and per share data):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Numerator:				
Net loss and comprehensive loss	\$ (6,868)	\$ (4,687)	\$ (13,800)	\$ (10,295)
Accretion and dividends on redeemable convertible preferred stock	—	—	—	(2,489)
Net loss attributable to common stockholders	<u>\$ (6,868)</u>	<u>\$ (4,687)</u>	<u>\$ (13,800)</u>	<u>\$ (12,784)</u>
Denominator:				
Weighted-average common shares outstanding	<u>32,793,907</u>	<u>32,017,335</u>	<u>32,769,093</u>	<u>20,099,402</u>
Net loss per share attributable to common stockholders, basic and diluted	<u>\$ (0.21)</u>	<u>\$ (0.15)</u>	<u>\$ (0.42)</u>	<u>\$ (0.64)</u>

The potential shares of common stock that were excluded from the computation of diluted net loss per share attributable to common stockholders for the six months ended June 30, 2022 and 2021 because including them would have been antidilutive are as follows:

	Six Months Ended June 30,	
	2022	2021
Non-vested shares under restricted stock grants	—	589,167
Shares subject to options to purchase common stock	6,719,312	4,717,637
Shares subject to warrants to purchase common stock	1,938,143	1,938,143
Total	<u>8,657,455</u>	<u>7,244,947</u>

For the three and six months ended June 30, 2022 and 2021, performance based option awards for 150,200 and 50,200 shares of common stock, respectively, are not included in the table above or considered in the calculation of diluted earnings per share until the performance conditions of the option award are considered probable by the Company.

NOTE 14 – SUBSEQUENT EVENTS

Management of the Company evaluated events that have occurred after the balance sheet dates through the date these condensed consolidated financial statements were issued. Based upon the review, management did not identify any recognized or non-recognized subsequent events that would have required adjustment or disclosure in the condensed consolidated financial statements.

On August 8, 2022, the Company approved common stock option awards covering a total of 255,000 shares of common stock to non-executive employees.

On August 15, 2022, the Company entered into an At-the-Market Issuance Agreement (the “Issuance Agreement”) with B. Riley Securities, Inc. (the “Sales Agent”). Pursuant to the terms of the Issuance Agreement, the Company may sell from time to time through the Sales Agent shares of the Company’s common stock having an aggregate offering price of up to \$50,000,000 (the “Shares”). Sales of Shares, if any, may be made by means of transactions that are deemed to be “at the market” offerings as defined in Rule 415 under the Securities Act, including block trades, ordinary brokers’ transactions on the Nasdaq Capital Market or otherwise at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices or by any other method permitted by law.

Under the terms of the Issuance Agreement, the Company may also sell Shares to the Sales Agent as principal for its own accounts at a price to be agreed upon at the time of sale. Any sale of Shares to the Sales Agent as principal would be pursuant to the terms of a separate terms agreement between the Company and the Sales Agent.

The Company has no obligation to sell any of the Shares under the Issuance Agreement and may at any time suspend solicitation and offers under the Issuance Agreement.

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations

Forward-Looking Statements

This Quarterly Report on Form 10-Q contains “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, that are intended to be covered by the “safe harbor” created by those sections. Forward-looking statements, which are based on certain assumptions and describe our future plans, strategies and expectations, can generally be identified by the use of forward-looking terms such as “believe,” “expect,” “may,” “will,” “should,” “would,” “could,” “seek,” “intend,” “plan,” “goal,” “project,” “estimate,” “anticipate,” “strategy,” “future”, “likely” or other comparable terms and references to future periods. All statements other than statements of historical facts included in this Form 10-Q regarding our strategies, prospects, financial condition, operations, costs, plans and objectives are forward-looking statements. Examples of forward-looking statements include, among others, statements we make regarding expectations for revenues, cash flows and financial performance, the anticipated results of our development efforts, product features and the timing for receipt of required regulatory approvals and product launches.

Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they are based only on our current beliefs, expectations and assumptions regarding the future of our business, future plans and strategies, projections, anticipated events and trends, the economy and other future conditions. Because forward-looking statements relate to the future, they are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict and many of which are outside of our control. Our actual results and financial condition may differ materially from those indicated in the forward-looking statements. Therefore, you should not rely on any of these forward-looking statements. Important factors that could cause our actual results and financial condition to differ materially from those indicated in the forward-looking statements include, among others, the following:

- our limited operating history and our ability to achieve profitability;
- our ability to continue as a going concern and our need for and ability to obtain additional capital in the future;
- our ability to demonstrate the feasibility of and develop products and their underlying technologies;
- the impact of competitive or alternative products, technologies and pricing;
- the impact of the COVID-19 on our business and local and global economic conditions;
- our ability to attract and retain highly qualified personnel;
- our dependence on consultants to assist in the development of our technologies;
- our ability to manage the growth of our Company and to realize the benefits from any acquisitions or strategic alliances we may enter in the future;
- our dependence on the successful commercialization of our proposed solution;
- our dependence on third parties to design, manufacture, market and distribute our proposed products;
- the adequacy of protections afforded to us by the patents that we own and the success we may have in, and the cost to us of, maintaining, enforcing and defending those patents;
- our ability to obtain, expand and maintain patent protection in the future, and to protect our non-patented intellectual property;
- the impact of any claims of intellectual property infringement, trade secret misappropriation, product liability, product recalls or other claims;
- our need to secure required FCC, FDA and other regulatory approvals from governmental authorities in United States;
- the impact of healthcare regulations and reform measures;
- the accuracy of our estimates of market size for our planned solution;

- our ability to implement and maintain effective control over financial reporting and disclosure controls and procedures; and
- our success at managing the risks involved in the foregoing items.

The risks included above are not exhaustive. Other important risks and uncertainties are described in the Risk Factors and in Management’s Discussion and Analysis of Financial Condition and Results of Operations sections of the 2021 Form 10-K and subsequently filed Quarterly Reports on Form 10-Q. Except as otherwise required by the federal securities laws, we undertake no obligation to publicly update any forward-looking statement, whether written or oral, that may be made from time to time, whether as a result of new information, future developments or otherwise.

Overview

Movano is developing a platform to deliver purpose-driven healthcare solutions at the intersection of medtech and consumer devices. Our mission is to empower and inspire you to live a healthier, happier life.

Our proprietary platform uses RF technology, which we believe will enable the creation of low-cost and scalable sensors that are small enough to fit into wearables and other small form factors. Combined with our mobile app and cloud infrastructure, we expect that our platform will provide users with the ability to measure and continuously monitor vital health data and provide actionable feedback to jumpstart changes in behaviors.

Our platform is the foundation for our first product in development, the Movano Ring. The smart ring and its accompanying app will combine vital health metrics with personalized intelligent feedback and is designed for women of all ages, who are traditionally an afterthought when it comes to wearable technology. Once developed, we expect the Ring will measure heart rate, HRV, sleep, respiration rate, temperature, blood oxygen saturation, steps, calories and incorporate women-centric features and design. The device will provide users and their network of caregivers with continuous health data distilled down to simple, yet meaningful, insights to help users make manageable lifestyle changes and take a more proactive approach that could mitigate the risks of chronic disease. A fundamental part of our corporate development strategy is to establish one or more strategic partnerships that would allow us to more fully exploit the potential of our technology.

On April 28, 2021, the Company established Movano Ireland Limited, organized under the laws of Ireland, as a wholly owned subsidiary of the Company.

Financial Operations Overview

We are a development stage company with a limited operating history. To date, we have invested substantially all of our efforts and financial resources into the research and development of the products we are developing, including conducting clinical studies and related general and administrative costs. To date, we have funded our operations primarily from the sale of our equity securities.

Adoption of New Accounting Pronouncement - Leases

In February 2016, the FASB issued ASU 2016-02, *Leases* (ASC 842) which requires lessees to recognize leases on the balance sheet by recording a right-of-use asset and lease liability. We adopted this new guidance as of January 1, 2022 and applied the modified retrospective approach, whereby prior comparative periods will not be retrospectively presented in the condensed consolidated financial statements. We elected the package of practical expedients not to reassess prior conclusions related to contracts containing leases and lease classification and the lessee practical expedient to combine lease and non-lease components for all asset classes. We made a policy election to not recognize right-of-use assets and lease liabilities for short-term leases for all asset classes. See Note 12 Commitments and Contingencies to our condensed consolidated financial statements covered under Part I, Item 1 of this Quarterly Report on Form 10-Q for further details.

Upon adoption on January 1, 2022, we recognized right-of-use assets and lease liabilities for operating leases of \$380,000 and \$429,000, respectively. The difference between the right-of-use asset and lease liability primarily represents the net book value of deferred rent recognized as of December 31, 2021, which was adjusted against the right-of-use asset upon adoption.

Critical Accounting Policies and Estimates

Management’s discussion and analysis of our financial condition and results of operations is based on our unaudited condensed consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States (“GAAP”). The preparation of these unaudited condensed consolidated financial statements requires us to make estimates and assumptions for the reported amounts of assets, liabilities, revenues, expenses, and related disclosures. Our estimates are based on our historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions and any such differences may be material. There have been no material changes in our critical accounting policies during the three and six months ended June 30, 2022, as compared to those disclosed in “Management’s Discussion and Analysis of Financial Condition and Results of Operations — Critical Accounting Policies and Significant Judgments and Estimates.”

Results of Operations

Three and six months ended June 30, 2022 and 2021

Our condensed consolidated statements of operations for the three and six months ended June 30, 2022 and 2021 as discussed herein are presented below.

	Three Months Ended June 30,		Change		Six Months Ended June 30,		Change	
	2022	2021	\$	%	2022	2021	\$	%
	<u>(in thousands, except share and per share data)</u>				<u>(in thousands, except share and per share data)</u>			
OPERATING EXPENSES:								
Research and development	\$ 4,112	\$ 3,183	\$ 929	29%	\$ 8,703	\$ 5,125	\$ 3,578	70%
General and administrative	2,734	1,863	871	47%	5,081	3,187	1,894	59%
Total operating expenses	<u>6,846</u>	<u>5,046</u>	<u>1,800</u>	36%	<u>13,784</u>	<u>8,312</u>	<u>5,472</u>	66%
Loss from operations	<u>(6,846)</u>	<u>(5,046)</u>	<u>(1,800)</u>	(36)%	<u>(13,784)</u>	<u>(8,312)</u>	<u>(5,472)</u>	(66)%
Other income (expense), net:								
Interest expense	—	—	—		—	(883)	883	100%
Change in fair value of warrant liability	—	—	—		—	(1,581)	1,581	100%
Change in fair value of derivative liability	—	—	—		—	121	(121)	(100)%
Forgiveness of Paycheck Protection Program Loan	—	351	(351)	100%	—	351	(351)	100%
Interest and other income (expense), net	<u>(22)</u>	<u>8</u>	<u>(30)</u>	(375)%	<u>(16)</u>	<u>9</u>	<u>(25)</u>	(278)%
Other income (expense), net	<u>(22)</u>	<u>359</u>	<u>(381)</u>	106%	<u>(16)</u>	<u>(1,983)</u>	<u>1,967</u>	99%
Net loss	<u>(6,868)</u>	<u>(4,687)</u>	<u>(2,181)</u>	(47)%	<u>(13,800)</u>	<u>(10,295)</u>	<u>(3,505)</u>	(34)%
Accretion and dividends on redeemable convertible preferred stock	<u>—</u>	<u>—</u>	<u>—</u>		<u>—</u>	<u>(2,489)</u>	<u>2,489</u>	(100)%
Net loss attributable to common stockholders	<u>\$ (6,868)</u>	<u>\$ (4,687)</u>	<u>\$ (2,181)</u>	(47)%	<u>\$ (13,800)</u>	<u>\$ (12,784)</u>	<u>\$ (1,016)</u>	(8)%

Research and Development

Research and development expenses totaled \$4.1 million and \$3.2 million for the three months ended June 30, 2022 and 2021, respectively. This increase of \$0.9 million was due primarily to the growth of the Company and its activities. Research and development expenses for the three months ended June 30, 2022 included expenses related to employee compensation of \$2.2 million, other professional fees of \$1.2 million, research and laboratory expenses of \$0.5 million, and other expenses of \$0.2 million. Research and development expenses for the three months ended June 30, 2021 included expenses related to employee compensation of \$1.7 million, tolls and equipment expenses of \$0.2 million, other professional fees of \$1.2 million, and other expenses of \$0.1 million.

Research and development expenses totaled \$8.7 million and \$5.1 million for the six months ended June 30, 2022 and 2021, respectively. This increase of \$3.6 million was due primarily to the growth of the Company and its activities. Research and development expenses for the six months ended June 30, 2022 included expenses related to employee compensation of \$4.6 million, other professional fees of \$ 2.8 million, research and laboratory expenses of \$0.8 million, and other expenses of \$0.5 million. Research and development expenses for the six months ended June 30, 2021 included expenses related to employee compensation of \$2.5 million, tools and equipment expenses of \$0.4 million, other professional fees of \$2.1 million, and other expenses of \$0.1 million.

General and Administrative

General and administrative expenses totaled \$2.7 million and \$1.9 million for the three months ended June 30, 2022 and 2021, respectively. This increase of \$0.8 million was due primarily to the growth of the Company and its activities. General and administrative expenses for the three months ended June 30, 2022 included expenses related to employee and board of director compensation of \$1.5 million, professional and consulting fees of \$0.6 million, and other expenses of \$0.6 million. General and administrative expenses for the three months ended June 30, 2021 included expenses related to employee and board of director compensation of \$1.0 million, professional and consulting fees of \$0.4 million, and other expenses of \$0.5 million.

General and administrative expenses totaled \$5.1 million and \$3.2 million for the six months ended June 30, 2022 and 2021, respectively. This increase of \$1.9 million was due primarily to the growth of the Company and its activities. General and administrative expenses for the six months ended June 30, 2022 included expenses related to employee and board of director compensation of \$2.7 million, professional and consulting fees of \$1.3 million, and other expenses of \$1.1 million. General and administrative expenses for the six months ended June 30, 2021 included expenses related to employee and board of director compensation of \$1.8 million, professional and consulting fees of \$0.9 million, and other expenses of \$0.5 million.

Loss from Operations

Loss from operations was \$6.8 million for the three months ended June 30, 2022, as compared to \$5.0 million for the three months ended June 30, 2021.

Loss from operations was \$13.8 million for the six months ended June 30, 2022, as compared to \$8.3 million for the six months ended June 30, 2021.

Other Income (Expense), Net

Other income (expense), net for the three months ended June 30, 2022 was a net other expense of \$22,000 as compared to a net other income of \$0.4 million for the three months ended June 30, 2021. Other income (expense), net for the three months ended June 30, 2022 included interest and other income, net and loss on the disposal of property and equipment. Other income (expense), net for the three months ended June 30, 2021 included primarily forgiveness of Paycheck Protection Program Loan of \$0.4 million.

Other income (expense), net for the six months ended June 30, 2022 was a net other expense of \$16,000 as compared to a net other expense of \$2.0 million for the six months ended June 30, 2021. Other income (expense), net for the six months ended June 30, 2022 included interest and other income, net and loss on the disposal of property and equipment. Other income (expense), net for the six months ended June 30, 2021 included interest expense of \$0.9 million related to the accrual of interest and amortization of debt discounts on the convertible promissory notes, \$1.6 million related to the change in fair value of the warrant liability, \$0.1 million related to the change in the fair value of the derivative liability, and forgiveness of the Paycheck Protection Program Loan of \$0.4 million.

Net Loss

As a result of the foregoing, net loss was \$6.9 million for the three months ended June 30, 2022, as compared to \$4.7 million for the three months ended June 30, 2021.

As a result of the foregoing, net loss was \$13.8 million for the six months ended June 30, 2022, as compared to \$10.3 million for the six months ended June 30, 2021.

Liquidity and Capital Resources

At June 30, 2022, we had cash, cash equivalents and short-term investments totaling \$21.3 million. During the six months ended June 30, 2022, the Company used \$12.2 million of cash in our operating activities. The cash and short-term investments are not expected to be sufficient to enable us to complete the development and commercialization of our proposed planned solution. We have executed an at the market issuance agreement for \$50 million which we will use as needed to fund operations. We expect to continue to incur significant expenses and increasing operating losses for at least the next several years. We anticipate that our expenses will increase substantially as we:

- advance the engineering design and development of our proposed wearable and other potential products;
- prepare applications required for marketing approval of our proposed planned solution in the United States;
- develop our plans for manufacturing, distributing and marketing our proposed wearable and other potential products; and
- add operational, financial and management information systems and personnel, including personnel to support our product development, planned commercialization efforts and our operation as a public company.

Until we can generate a sufficient amount of revenue from our planned products, if ever, we expect to finance future cash needs through public or private equity offerings, debt financings or corporate collaborations and licensing arrangements. Additional funds may not be available when we need them on terms that are acceptable to us, or at all. If adequate funds are not available, we may be required to delay, reduce the scope of or eliminate one or more of our research or development programs or our commercialization efforts. To the extent that we raise additional funds by issuing equity securities, our stockholders may experience additional dilution, and debt financing, if available, may involve restrictive covenants. To the extent that we raise additional funds through collaborations and licensing arrangements, it may be necessary to relinquish some rights to our technologies or applications or grant licenses on terms that may not be favorable to us. We may seek to access the public or private capital markets whenever conditions are favorable, even if we do not have an immediate need for additional capital at that time.

These circumstances raise substantial doubt about the Company's ability to continue as a going concern within one year after the date that the financial statements are issued. Our financial statements do not include adjustments to the amounts and classification of assets and liabilities that may be necessary should we be unable to continue as a going concern. Our ability to continue as a going concern depends on our ability to raise additional capital through the sale of equity or debt securities to support our future operations.

The following table summarizes our cash flows for the periods indicated (in thousands):

	Six Months Ended June 30,	
	2022	2021
Net cash used in operating activities	\$ (12,153)	\$ (7,772)
Net cash provided by / (used in) investing activities	11,548	(13,728)
Net cash provided by financing activities	19	45,095
Net (decrease) / increase in cash and cash equivalents	<u>\$ (586)</u>	<u>\$ 23,595</u>

Operating Activities

During the six months ended June 30, 2022, the Company used cash of \$12.2 million in operating activities, as compared to \$7.8 million used in operating activities during the six months ended June 30, 2021.

The \$12.2 million used in operating activities during the six months ended June 30, 2022 was primarily attributable to our net loss of \$13.8 million during the period and changes in our operating assets and liabilities totaling \$33,000. These items were offset by non-cash items, including stock-based compensation of \$1.5 million, accretion of discount on short-term investments of \$0.1 million and loss on disposal of property and equipment of \$44,000.

The \$7.8 million used in operating activities during the six months ended June 30, 2021 was primarily attributable to our net loss of \$10.3 million during the period and changes in our operating assets and liabilities totaling \$0.3 million. These items were offset by non-cash items, including stock-based compensation of \$0.7 million, accretion of the debt discount on our convertible promissory notes of \$0.8 million, the forgiveness of our PPP loan of \$0.4 million, accrued interest on our convertible promissory notes of \$0.1 million, compensation of nonemployee services upon the issuance of common stock of \$0.1 million, the change in the fair value of the derivative liability of \$0.1 million and the change in the fair value of the warrant liability of \$1.6 million.

Investing Activities

During the six months ended June 30, 2022 the Company was provided cash of \$11.5 million in investing activities, consisting primarily of \$11.6 million from maturities of short-term investments.

During the six months ended June 30, 2021 the Company used cash of \$13.7 million in investing activities, consisting of \$13.4 million in purchases of marketable securities and \$0.3 million for the purchase of office and laboratory equipment.

Financing Activities

During the six months ended June 30, 2022, the Company was provided cash of \$19,000 from the issuance of common stock.

During the six months ended June 30, 2021, the Company was provided cash of \$45.1 million from financing activities, comprised of \$45.0 million from the net proceeds of our initial public offering and \$0.1 million from the issuance of common stock.

Off-Balance Sheet Transactions

At June 30, 2022, the Company did not have any transactions, obligations or relationships that could be considered off-balance sheet arrangements.

Item 3. Quantitative and Qualitative Disclosure About Market Risk

As a smaller reporting company, we are not required to provide the information required by this Item 3.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We are responsible for maintaining disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act. Disclosure controls and procedures are controls and other procedures designed to ensure that the information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our principal executive officer and our principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Based on our management's evaluation (with the participation of our principal executive officer and our principal financial officer) of our disclosure controls and procedures as required by Rule 13a-15 under the Exchange Act, our principal executive officer and our principal financial officer have concluded that our disclosure controls and procedures were not effective as of June 30, 2022, the end of the period covered by this report.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of a company's annual or interim financial statements will not be prevented or detected on a timely basis. We identified one material weakness in our internal control over financial reporting at June 30, 2022 related to ineffective design and operation of our financial close and reporting controls. Specifically, we did not design and maintain effective controls over certain account reviews and analyses and certain information technology general controls. Although we are making efforts to remediate these issues, these efforts may not be sufficient to avoid similar material weaknesses in the future.

Inherent Limitations on Effectiveness of Controls

Our management, including our principal executive officer and our principal financial officer, do not expect that our disclosure controls or our internal control over financial reporting will prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of a simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of control effectiveness to future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting during the six months ended June 30, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II – OTHER INFORMATION

Item 1. Legal Proceedings

We are not currently a party to any pending legal proceedings that we believe will have a material adverse effect on our business or financial condition. We may, however, be subject to various claims and legal actions arising in the ordinary course of business from time to time.

Item 1A. Risk Factors

We operate in a rapidly changing environment that involves a number of risks that could materially affect our business, financial condition or future results, some of which are beyond our control. In addition to the other information set forth in this report, the risks and uncertainties that we believe are most important for you to consider are discussed in Part I, “Item 1A. Risk Factors” in the 2021 Form 10-K. There have been no material changes to the risk factors described in the 2021 Form 10-K.

Item 2. Recent Sales of Unregistered Securities; Use of Proceeds from Registered Securities

Use of Proceeds from Initial Public Offering

In connection with the IPO, on March 22, 2021, our Registration Statement on Form S-1, as amended (Reg. No. 333-252671) was declared effective by the SEC and, on March 23, 2021, our Registration Statement on Form S-1 (Reg. No. 333-254602) became effective upon filing with the SEC.

There has been no material change in the planned use of proceeds from the Offering as described in the prospectus for the Offering.

Recent Sales of Unregistered Securities

Pursuant to the Nasdaq Listing Rule 5635(c)(4) inducement grant exception and Section 4(a)(2) under the Securities Act of 1933, during the three months ended June 30, 2022, we issued options to purchase an aggregate of 295,000 shares of common stock to certain new hire employees at an exercise price of \$2.54 per share. The shares underlying these options will be registered on a Form S-8 registration statement prior to the first vesting event applicable to each such award.

Item 3. Defaults Upon Senior Securities

Not applicable.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

The information set forth below is included herein for the purpose of providing disclosure under Item 1.01 (Entry into a Material Definitive Agreement) of Form 8-K.

On August 15, 2022, the Company entered into an At the Market Issuance Agreement (the “Issuance Agreement”) with B. Riley Securities, Inc. (the “Sales Agent”). Pursuant to the terms of the Issuance Agreement, the Company may sell from time to time through the Sales Agent shares of the Company’s common stock having an aggregate offering price of up to \$50,000,000 (the “Shares”). Sales of Shares, if any, may be made by means of transactions that are deemed to be “at the market” offerings as defined in Rule 415 under the Securities Act, including block trades, ordinary brokers’ transactions on the Nasdaq Capital Market or otherwise at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices or by any other method permitted by law. The Company intends to use the net proceeds from the offering, after deducting the Sales Agent’s commissions and the Company’s offering expenses, for general corporate purposes.

Under the terms of the Issuance Agreement, the Company may also sell Shares to the Sales Agent as principal for its own accounts at a price to be agreed upon at the time of sale. Any sale of Shares to the Sales Agent as principal would be pursuant to the terms of a separate terms agreement between the Company and the Sales Agent.

The Company has no obligation to sell any of the Shares under the Issuance Agreement and may at any time suspend solicitation and offers under the Issuance Agreement.

The Shares will be offered and sold pursuant to the Company’s registration statement on Form S-3 (File No. 333-264116), as supplemented by the prospectus supplement dated August 15, 2022.

The foregoing summary of the Issuance Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Issuance Agreement, which is attached as Exhibit 1.1 to this Quarterly Report on Form 10-Q and incorporated by reference into this Item 5.

A copy of the opinion of K&L Gates LLP relating to the legality of the issuance and sale of the Shares is attached as Exhibit 5.1 hereto.

Item 6. Exhibits

Exhibit Number	Description
1.1	At the Market Issuance Agreement, dated August 15, 2022 by and between the Company, as issuer, and B. Riley Securities, Inc. as sale agent (filed herewith)
3.1	Third Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on March 25, 2021)
3.2	Amended and Restated Bylaws of the Registrant (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K filed on March 25, 2021)
4.1	Specimen Certificate representing shares of common stock of the Registrant (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-1 filed on March 10, 2021)
4.2	Form of Underwriter Warrant (incorporated by reference to Exhibit 4.2 to the Company's Registration Statement on Form S-1 filed on March 10, 2021)
4.3	Form of Amended and Restated Warrant to Purchase Common Stock issued to the placement agent in the Registrant's 2018 private placement offering (incorporated by reference to Exhibit 4.3 to the Company's Registration Statement on Form S-1 filed on February 2, 2021)
4.4	Form of Amended and Restated Warrant to Purchase Common Stock issued to the placement agent in the Registrant's 2019 private placement offering (incorporated by reference to Exhibit 4.4 to the Company's Registration Statement on Form S-1 filed on February 2, 2021)
4.6	Form of Warrant to Purchase Common Stock issued in 2020 (incorporated by reference to Exhibit 4.6 to the Company's Registration Statement on Form S-1 filed on February 2, 2021)
5.1	Opinion of K&L Gates with respect to the Shares (filed herewith)
10.1	Amendment No. 1 to Movano Inc. Amended and Restated Omnibus Incentive Plan (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on June 22, 2022)*
31.1	Certification of Periodic Report by Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14a and pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith)
31.2	Certification of Periodic Report by Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14a and pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith)
32.1	Certification of Periodic Report by Chief Executive Officer and Chief Financial Officer pursuant to U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith)
101.INS	Inline XBRL Instance Document (filed herewith)
101.SCH	Inline XBRL Taxonomy Extension Schema Document (filed herewith)
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document (filed herewith)
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document (filed herewith)
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document (filed herewith)
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document (filed herewith)
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

* Management contract or compensatory plan or arrangement

SIGNATURES

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

Date: August 15, 2022

MOVANO INC.

By: /s/ John Mastrototaro

John Mastrototaro
Chief Executive Officer
(Principal Executive Officer)

Date: August 15, 2022

MOVANO INC.

By: /s/ J. Cogan

J. Cogan
Chief Financial Officer
(Principal Financial and Accounting Officer)

MOVANO INC.

Common Stock, Par Value \$0.0001 Per Share

At the Market Issuance Agreement

August 15, 2022

B. Riley Securities, Inc.
299 Park Avenue, 21st Floor
New York, NY 10171

Ladies and Gentlemen:

Movano Inc., a Delaware corporation (the “**Company**”), confirms its agreement with B. Riley Securities, Inc. (“**B. Riley**” or the “**Agent**”), with respect to the issuance and sale from time to time by the Company, in the manner and subject to the terms and conditions described in this At the Market Issuance Agreement (this “**Agreement**”), of shares (the “**Placement Shares**”) of the Company’s common stock, par value \$0.0001 per share (the “**Common Stock**”). The aggregate gross sales price of the Common Stock that may be sold pursuant to this Agreement, including any Terms Agreement (as defined below), collectively shall not exceed \$50 million (the “**Maximum Amount**”).

The Company has filed with the Securities and Exchange Commission (the “**Commission**”) an shelf registration statement on Form S-3 (No. 333-264116), including the prospectus included therein (the “**Base Prospectus**”), covering the registration of the offer and sale of certain securities, including the Placement Shares, under the Securities Act of 1933, as amended (the “**1933 Act**”), and the applicable rules and regulations of the Commission promulgated thereunder (the “**1933 Act Regulations**”), which became effective on May 25, 2022. Except where the context otherwise requires, “**Registration Statement**” means the registration statement referred to above, as amended at the time of such registration statement’s effectiveness for purposes of Section 11 of the 1933 Act, as such section applies to B. Riley, including (1) all documents filed as a part thereof or incorporated or deemed to be incorporated by reference therein and (2) any information contained or incorporated by reference in a prospectus filed with the Commission pursuant to Rule 424(b) under the 1933 Act (“**Rule 424(b)**”), to the extent such information is deemed, pursuant to Rule 430B or Rule 430C under the 1933 Act, to be part of such registration statement at the effective time. “**Prospectus Supplement**” means the prospectus supplement to the Base Prospectus included as part of the Registration Statement specifically relating to the offering of the Placement Shares. “**Prospectus**” means the Prospectus Supplement (and any additional prospectus supplement prepared in accordance with the provisions of Section 7(o) of this Agreement and filed in accordance with the provisions of Rule 424(b)) together with the Base Prospectus attached to or used with the Prospectus Supplement.

Any reference herein to the Registration Statement, the Base Prospectus, the Prospectus, any Permitted Free Writing Prospectus (as defined below) or any amendment or supplement thereto shall be deemed to refer to and include the documents, if any, incorporated by reference, or deemed to be incorporated by reference, therein, and any reference herein to the terms “amend,” “amendment” or “supplement” with respect to the Registration Statement or the Prospectus shall be deemed to refer to and include the filing after the execution hereof of any document with the Commission incorporated by reference therein. All references in this Agreement to financial statements and schedules and other information which is “contained,” “included” or “stated” in the Registration Statement, the General Disclosure Package (as defined below) or the Prospectus (and all other references of like import) shall be deemed to include all such financial statements and schedules and other information which is or is deemed to be incorporated by reference in the Registration Statement or the Prospectus, as the case may be; and all references in this Agreement to amendments or supplements to the Registration Statement, the General Disclosure Package or the Prospectus shall be deemed to include the filing of any document under the Securities Exchange Act of 1934, as amended (the “**1934 Act**”), which is or is deemed to be incorporated by reference in the Registration Statement, the General Disclosure Package or the Prospectus, as the case may be, after the most recent effective date prior to the execution of this Agreement, in the case of the Registration Statement, or the respective issue date in the case of the Prospectus or any Free Writing Prospectus or Issuer Free Writing Prospectus included as part of the General Disclosure Package. All references in this Agreement to the Registration Statement or the Prospectus, or any amendments or supplements to any of the foregoing, shall be deemed to include any copy thereof filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval System (“**EDGAR**”).

As used in this Agreement:

“**Business Day**” shall mean any day on which Nasdaq (as defined below) and commercial banks in the City of New York are open for business.

“**Free Writing Prospectus**” means any “free writing prospectus”, as defined in Rule 405 of the 1933 Act Regulations (“**Rule 405**”) relating to the Placement Shares.

“**General Disclosure Package**” means, with respect to the offer or sale of any Placement Shares, the Prospectus and each applicable Free Writing Prospectus or Issuer Free Writing Prospectus (as defined below) relating to such Placement Shares, if any, issued at or prior to the relevant Time of Sale and the public offering price of such Placement Shares, all considered together.

“**Issuer Free Writing Prospectus**” means any “issuer free writing prospectus” as defined in Rule 433 of the 1933 Act Regulations relating to the Placement Shares.

“**Time of Sale**” means (i) with respect to each offering of Placement Shares pursuant to this Agreement in connection with any Agency Transaction (as defined below), the time of B. Riley’s initial entry into contracts with purchasers for the sale of such Placement Shares and (ii) with respect to each offering of Placement Shares pursuant to any relevant Terms Agreement, the time of sale of such Placement Shares to B. Riley.

“**Trading Day**” means any day on which shares of Common Stock are purchased and sold on the principal market on which the Common Stock is listed or quoted.

The Company and B. Riley agree as follows:

1. Issuance and Sale of Placement Shares. The Company agrees that, from time to time during the term of this Agreement, on the terms and subject to the conditions set forth herein, it may issue and sell through or to B. Riley, as sales agent or principal, Placement Shares; *provided, however*, that in no event shall the Company issue or sell through or to B. Riley Placement Shares that would result in the aggregate gross sales price of all Common Stock sold pursuant to this Agreement or any Terms Agreement exceeding the Maximum Amount; *provided further, however*, that in no event shall the aggregate number of Placement Shares sold pursuant to this Agreement exceed the number of authorized but unissued shares of Common Stock at any time. Notwithstanding anything to the contrary contained herein, the parties hereto agree that compliance with the limitations set forth in this Section 1 on the number or dollar amount of Placement Shares issued and sold under this Agreement shall be the sole responsibility of the Company and that B. Riley shall have no obligation in connection with such compliance. The issuance and sale of the Placement Shares through or to B. Riley will be effected pursuant to the Registration Statement, although nothing in this Agreement shall be construed as requiring the Company to use the Registration Statement to issue any Placement Shares.

2. Agency and Principal Transactions.

(a) *Agency Transactions*. Each time that the Company wishes to issue and sell any Placement Shares hereunder through B. Riley, acting as agent (each such transaction, an “**Agency Transaction**”), it will notify B. Riley by email notice (or other method mutually agreed to in writing by the parties) containing the parameters in accordance with which the Company desires such Placement Shares to be sold (each such notice, a “**Placement Notice**”), which Placement Notice shall, at a minimum, include (w) the number of Placement Shares to be issued, (x) the time period during which sales are requested to be made, (y) any limitation on the number of Placement Shares that may be sold in any one Trading Day and (z) any minimum price below which sales may not be made. A form of Placement Notice which contains such minimum sales parameters is attached hereto as Schedule 1. Each Placement Notice is required to originate from one of the individuals from the Company set forth on Schedule 2, and shall be addressed to each of the individuals from B. Riley set forth on Schedule 2, as such Schedule 2 may be amended from time to time. Each Placement Notice shall be effective immediately upon receipt by B. Riley unless and until:

(i) in accordance with the notice requirements set forth in Section 4, B. Riley declines to accept the terms contained therein for any reason, in its sole discretion,

- (ii) the Maximum Amount of Placement Shares has been sold,
 - (iii) in accordance with the notice requirements set forth in Section 4, the Company suspends or terminates such Placement Notice,
 - (iv) the Company issues a subsequent Placement Notice with parameters superseding those on such earlier dated Placement Notice,
- or
- (v) this Agreement has been terminated under the provisions of Section 11.

The amount of any discount, commission or other compensation to be paid by the Company to B. Riley in connection with the sale of the Placement Shares in any Agency Transaction shall be calculated in accordance with the terms set forth in Schedule 3. It is expressly acknowledged and agreed that neither the Company nor B. Riley will have any obligation whatsoever with respect to an Agency Transaction unless and until the Company delivers a Placement Notice to B. Riley and B. Riley does not decline such Placement Notice pursuant to the terms set forth above, and then only upon the terms specified in this Agreement and such Placement Notice. In the event of a conflict between the terms of this Agreement and the terms of a Placement Notice, the terms of the Placement Notice will control.

(b) *Principal Transactions*. The Company may also offer to sell the Placement Shares directly to B. Riley, as principal, in which event such parties shall enter into a separate agreement (each such agreement, a “**Terms Agreement**”) in substantially the form set forth in Schedule 2(b) hereto (with such changes thereto as may be agreed upon by the Company and B. Riley), relating to such sale in accordance with Section 3(b) hereof (each such transaction being referred to as a “**Principal Transaction**”). Each of the Company and B. Riley agree that any Terms Agreement may be completed in the form of an electronic mail communication with such acceptance and agreement coming in the form of an electronic mail communication to be sent and received, in each case by an individual from the Company and B. Riley set forth on Schedule 2 hereto, as such Schedule 2 may be amended from time to time. In the event of a conflict between the terms of this Agreement and the terms of a Terms Agreement, the terms of such Terms Agreement shall control.

3. Sale of Placement Shares by B. Riley.

(a) *Agency Sales of Placement Shares*. Subject to the terms and conditions herein set forth, upon the Company’s delivery of a Placement Notice with respect to an Agency Transaction, and unless the sale of the Placement Shares described therein has been declined, suspended, or otherwise terminated in accordance with the terms of this Agreement, B. Riley, for the period specified in the Placement Notice, will use its commercially reasonable efforts consistent with its normal trading and sales practices and applicable state and federal laws, rules and regulations and the rules of the Nasdaq Stock Market (“**Nasdaq**”) to sell such Placement Shares up to the amount specified in, and otherwise in accordance with the terms of, such Placement Notice. B. Riley will provide written confirmation to the Company (including by email correspondence to each of the individuals of the Company set forth on Schedule 2, if receipt of such correspondence is actually acknowledged by any of the individuals to whom the notice is sent, other than via auto-reply), no later than the opening of the Trading Day immediately following the Trading Day on which it has made sales of Placement Shares hereunder setting forth the number of Placement Shares sold on such day, the volume-weighted average price of the Placement Shares sold, the Net Proceeds (as defined below) payable to the Company in respect thereof and the compensation payable by the Company to B. Riley pursuant to the terms hereof with respect to such sales. B. Riley may sell Placement Shares by any method permitted by law deemed to be an “at the market” offering as defined in Rule 415 of the 1933 Act Regulations. The Company acknowledges and agrees that (i) there can be no assurance that B. Riley will be successful in selling Placement Shares and (ii) B. Riley will incur no liability or obligation to the Company or any other person or entity if it does not sell Placement Shares for any reason other than a failure by B. Riley to use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such Placement Shares as required under this Section 3.

(b) *Sales of Placement Shares via Principal Transaction.*

(i) If the Company wishes to issue and sell any Placement Shares to B. Riley pursuant to this Agreement in a Principal Transaction, the Company and B. Riley shall enter into a Terms Agreement setting forth the terms of such Principal Transaction.

(ii) Each sale of any Placement Shares to B. Riley in a Principal Transaction shall be made in accordance with the terms of this Agreement and the applicable Terms Agreement, which shall provide for the sale of such Placement Shares to, and the purchase thereof by, B. Riley. The commitment of B. Riley to purchase the Placement Shares pursuant to any Terms Agreement shall be deemed to have been made on the basis of the representations, warranties and agreements of the Company contained, and shall be subject to the terms and conditions set forth, in this Agreement and such Terms Agreement. Any such Terms Agreement shall specify the number of the Placement Shares to be purchased by B. Riley pursuant thereto, the timing and method of such sale, the price to be paid to the Company for such Placement Shares, and the time, date (each such time and date being referred to herein as a "**Principal Settlement Date**") and place of delivery of and payment for such Placement Shares.

(c) Notwithstanding any other provision of this Agreement, the Company shall not offer, sell or deliver, or request the offer or sale, of any Placement Shares pursuant to this Agreement (whether in an Agency Transaction or a Principal Transaction) and, by notice to B. Riley given by telephone (confirmed promptly by email to one of the individuals of B. Riley set forth on Schedule 2), shall cancel any instructions for the offer or sale of any Placement Shares, and B. Riley shall not be obligated to offer or sell any Placement Shares, during any period in which the Company is, or reasonably could be deemed to be, in possession of material non-public information.

4. Suspension of Sales.

(a) The Company or B. Riley may, upon notice to the other party in writing (including by email correspondence to each of the individuals of the other party set forth on Schedule 2, if receipt of such correspondence is actually acknowledged by any of the individuals to whom the notice is sent, other than via auto-reply) or by telephone (confirmed immediately by verifiable facsimile transmission or email correspondence to each of the individuals of the other party set forth on Schedule 2), suspend any sale of Placement Shares; *provided, however*, that such suspension shall not affect or impair either party's obligations with respect to any Placement Shares sold hereunder prior to the receipt of such notice or their respective obligations under any Terms Agreement. Each of the parties agrees that no such notice under this Section 4 shall be effective against the other unless it is made to the individuals named on Schedule 2 hereto, as such schedule may be amended from time to time.

(b) Notwithstanding any other provision of this Agreement, during any period in which the Registration Statement is no longer effective under the 1933 Act, the Company shall promptly notify B. Riley, the Company shall not request the sale of any Placement Shares, and B. Riley shall not be obligated to sell or offer to sell any Placement Shares.

5. Settlement.

(a) Settlement of Placement Shares. Unless otherwise specified in the applicable Placement Notice, settlement for sales of Placement Shares in an Agency Transaction will occur on the second (2nd) Trading Day (or such earlier day as is industry practice for regular-way trading) following the date on which such sales are made (each such date, an "**Agency Settlement Date**" and the first such Agency Settlement Date, the "**First Delivery Date**"; and any Agency Settlement Date and Principal Settlement Date shall be referred to as a "**Settlement Date**"). The amount of proceeds to be delivered to the Company on a Settlement Date against receipt of the Placement Shares sold (the "**Net Proceeds**") will be equal to the aggregate sales price received by B. Riley at which such Placement Shares were sold, after deduction for (i) B. Riley's commission, discount or other compensation for such sales payable by the Company pursuant to Section 2 hereof or pursuant to any applicable Terms Agreement, (ii) any other amounts due and payable by the Company to B. Riley hereunder pursuant to Section 7(j) hereof, and (iii) any transaction fees imposed by any governmental or self-regulatory organization in respect of such sales.

(b) Delivery of Placement Shares. On or before each Settlement Date, the Company will, or will cause its transfer agent to, electronically transfer the Placement Shares being sold by crediting B. Riley's or its designee's account (*provided* that B. Riley shall have given the Company written notice of such designee at least one Business Day prior to the Settlement Date) at The Depository Trust Company through its Deposit and Withdrawal at Custodian system or by such other means of delivery as may be mutually agreed upon by the parties hereto against payment by B. Riley of the related Net Proceeds in respect of the sale of such Placement Shares in immediately available funds to an account designated by the Company on, or prior to, the Settlement Date. Upon such settlement, such Placement Shares shall be freely tradeable, transferable, registered shares in good deliverable form. The Company agrees that if the Company, or its transfer agent (if applicable), defaults in its obligation to deliver duly authorized Placement Shares on a Settlement Date, the Company agrees that in addition to and in no way limiting the rights and obligations set forth in Section 9(a) (Indemnification and Contribution) hereto, it will (i) hold B. Riley harmless against any loss, claim, damage, or expense (including reasonable legal fees and expenses), as incurred, arising out of or in connection with such default by the Company and (ii) pay to B. Riley any commission, discount, or other compensation to which it would otherwise have been entitled absent such default.

6. Representations and Warranties of the Company. The Company represents and warrants to, and agrees with, B. Riley that as of (i) the date of this Agreement, (ii) each date on which the Company executes and delivers a Terms Agreement, (iii) each Time of Sale, (iv) each Settlement Date, and (v) each Bring-Down Date (as defined in Section 7(p)) (each such date included in (i) through (v), a "**Representation Date**"):

(a) The Company meets the requirements for use of a "shelf registration statement" on Form S-3 in connection with the issuance of its securities, including the Placement Shares. The Registration Statement became effective upon filing with the Commission under Rule 462(e) under the 1933 Act Regulations, and no stop order suspending the effectiveness of the Registration Statement or any part thereof has been issued under the 1933 Act and no proceedings for that purpose have been instituted or are pending or, to the knowledge of the Company, are contemplated by the Commission or by the state securities authority of any jurisdiction, and any request on the part of the Commission for additional information has been complied with. The Prospectus Supplement will name B. Riley as the agent in the section entitled "Plan of Distribution." The Registration Statement and the offer and sale of Placement Shares as contemplated hereby meet the requirements of Rule 415 under the 1933 Act and comply in all material respects with such Rule. Copies of the Registration Statement, the Prospectus, and any amendments or supplements thereto and all documents incorporated by reference therein that were filed with the Commission on or prior to the date of this Agreement have been delivered to B. Riley and its counsel or are available through EDGAR. The Common Stock is currently quoted on Nasdaq under the trading symbol "MOVE."

(b) The Prospectus when filed complied and, as amended or supplemented, if applicable, will comply in all material respects with the 1933 Act. The Registration Statement, and any post-effective amendments thereto, at the time it became effective complied, and as of each Representation Date, complied and will comply, in all material respects with the 1933 Act and did not and, as of each Representation Date, did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. Each of the Prospectus and General Disclosure Package, as amended or supplemented, as of its date, did not, and, as of each Representation Date, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The representations and warranties set forth in the two immediately preceding sentences do not apply to statements in or omissions from the Registration Statement or any post-effective amendment thereto, or the Prospectus, or any amendments or supplements thereto, made in reliance upon and in conformity with the information relating to B. Riley and furnished to the Company in writing by B. Riley expressly for use therein.

(c) The documents incorporated or deemed to be incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus, at the time they were or hereafter are filed with the Commission, complied and will comply in all material respects with the requirements of the 1934 Act and the rules and regulations of the Commission under the 1934 Act (the “**1934 Act Regulations**”), and, when read together with the other information in the Registration Statement, the General Disclosure Package or the Prospectus, as applicable, as of each Representation Date, did not and will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were or will be made, not misleading.

(d) Each Issuer Free Writing Prospectus, if any, as of its date of first use and at all subsequent times through the completion of the applicable public offer and sale of Placement Shares, did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, the General Disclosure Package or the Prospectus, including any document incorporated by reference therein. The foregoing sentence does not apply to statements in or omissions from any such Issuer Free Writing Prospectus based upon and in conformity with written information furnished to the Company by B. Riley expressly for use therein.

(e) The Registration Statement, the Prospectus and any Permitted Free Writing Prospectus (to the extent any such Permitted Free Writing Prospectus was required to be filed with the Commission) delivered to B. Riley for use in connection with the public offering of the Placement Shares contemplated herein or by any Terms Agreement have been and will be at the time of such delivery identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(f) The Placement Shares, since their registration on the Registration Statement, have been and remain eligible for registration by the Company on a “shelf registration statement.” The Company has not received from the Commission any notice pursuant to Rule 401(g) of the 1933 Act Regulations objecting to the use of the shelf registration statement form.

(g) At the time of filing the Registration Statement and at each Representation Date, the Company was not and is not an “ineligible issuer,” as defined in Rule 405.

(h) The Company has not distributed and will not distribute, prior to the completion of B. Riley’s distribution of the Placement Shares, any offering material in connection with the offering and sale of the Placement Shares other than the Prospectus, the Registration Statement, the General Disclosure Package and any Issuer Free Writing Prospectus to which B. Riley has consented, which consent will not be unreasonably withheld or delayed, or that is required by applicable law or the listing maintenance requirements of Nasdaq to be so distributed (any such Issuer Free Writing Prospectus is referred to herein as a “**Permitted Free Writing Prospectus**”).

(i) The Company has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and any Terms Agreement; and all action required to be taken for the due and proper authorization, execution and delivery of this Agreement has been duly and validly taken. This Agreement has been duly authorized, executed and delivered by the Company.

(j) The Placement Shares to be issued and sold by the Company hereunder or under any Terms Agreement have been duly authorized for issuance and sale pursuant to this Agreement and any Terms Agreement, as applicable, and, when issued and delivered by the Company pursuant to this Agreement or any Terms Agreement, as applicable, against payment of the consideration set forth herein or therein, will be validly issued and fully paid and non-assessable; and the issuance of the Placement Shares is not subject to the preemptive or other similar rights of any securityholder of the Company. The Placement Shares conform in all material respects to all statements relating thereto contained in the Registration Statement, the Prospectus, the General Disclosure Package and any Permitted Free Writing Prospectus.

(k) The issuance and sale of the Placement Shares, the execution, delivery and performance of this Agreement by the Company and the consummation of the transactions contemplated hereby will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, impose any Lien (as defined below) upon any property or assets of the Company and its subsidiaries, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, license, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject; (ii) result in any violation of the provisions of the organizational documents of the Company or any of its subsidiaries; or (iii) result in any violation of any statute or any judgment, order, decree, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties or assets, except, with respect to clauses (i) and (iii), as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the condition (financial or otherwise), results of operations, properties, prospects, operations or business of the Company and its subsidiaries taken as a whole (a “**Material Adverse Effect**”) or have a material adverse effect on the performance of the Company of its obligations hereunder.

(l) Except as set forth in each of the Registration Statement, the General Disclosure Package and the Prospectus, the Company has no significant subsidiaries (as such term is defined in Rule 1-02 of Regulation S-X) that are not included among the subsidiaries listed in Exhibit 21.1 to the Company’s Annual Report on Form 10-K for the most recently ended fiscal year.

(m) Moss Adams LLP, which has certified certain financial statements of the Company and its subsidiaries, is an independent public accounting firm with respect to the Company and its subsidiaries within the applicable rules and regulations adopted by the Commission and the Public Company Accounting Oversight Board (United States) as required by the 1933 Act.

(n) The historical financial statements (including the related notes and schedules thereto) included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus present fairly in all material respects the financial condition, results of operations and cash flows of the entities purported to be shown thereby at the dates and for the periods indicated and have been prepared in conformity with accounting principles generally accepted in the United States (“**GAAP**”) applied on a consistent basis throughout the periods involved, except for any annual year-end adjustment, the adoption of new accounting principles, and except as otherwise noted therein. The supporting schedules, if any, present fairly the information required to be stated therein. The selected financial data and the summary financial information (if any) included in each of the Registration Statement, the General Disclosure Package and the Prospectus present fairly the information shown therein and have been compiled on a basis consistent with that of the audited financial statements included therein. All disclosures contained in the Registration Statement, the General Disclosure Package and the Prospectus regarding “non-GAAP financial measures” (as such term is defined by the rules and regulations of the Commission) comply in all material respects with Regulation G of the 1934 Act and Item 10(e) of Regulation S-K of the 1933 Act Regulations, to the extent applicable. The interactive data in eXtensible Business Reporting Language included in the Registration Statement, the General Disclosure Package and the Prospectus fairly presents the information called for in all material respects and has been prepared in all material respects in accordance with the Commission’s rules and guidelines applicable thereto.

(o) Each of the Company and each of its subsidiaries has been duly organized, is validly existing and in good standing as a corporation or other business entity under the laws of its jurisdiction of organization and is duly qualified to do business and in good standing as a foreign corporation or other business entity in each jurisdiction in which its ownership or lease of property or the conduct of its businesses requires such qualification, except where the failure to be so qualified or in good standing would not, in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company and each of its subsidiaries have all power and authority necessary to own or hold its properties and to conduct the businesses in which it is engaged as described in each of the Registration Statement, the General Disclosure Package and the Prospectus, except where the failure to have such power and authority would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

(p) Except as described in each of the Registration Statement, the General Disclosure Package and the Prospectus, there are no legal or governmental or regulatory investigations, actions, demands, claims, suits, arbitrations, inquiries or proceedings pending to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is the subject that would, individually or in the aggregate, if determined adversely to the Company or any of its subsidiaries, reasonably be expected to have a Material Adverse Effect; and to the Company's knowledge, no such proceedings are threatened by governmental authorities, regulatory authorities or others.

(q) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the authorized, issued and outstanding stock of the Company is as set forth in the latest balance sheet incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus (except for subsequent issuances, if any, pursuant to reservations, employee benefit plans, dividend reinvestment plans, employee and director stock option plans or the exercise of convertible securities referred to therein). All of the issued and outstanding shares of capital stock or other equity interests of each subsidiary owned, directly or indirectly, by the Company have been duly authorized and validly issued, are fully paid and non-assessable and are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities, security interests or claims (collectively, "**Liens**"), except for such Liens as would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

(r) No consent, approval, authorization or order of, or filing, registration or qualification with, any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties or assets is required for the issue and sale of the Placement Shares, the execution, delivery and performance of this Agreement by the Company and the consummation of the transactions contemplated hereby, except (A) such as have been already obtained or as may be required under the 1933 Act, the 1933 Act Regulations, the rules of Nasdaq, state securities or Blue Sky laws or the rules of the Financial Industry Regulatory Authority ("**FINRA**") and (B) such consents, approvals, authorizations or orders, of which the failure to obtain would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(s) Neither the Company nor any of its subsidiaries has sustained, since the date of the last audited financial statements included in the Registration Statement, the General Disclosure Package or the Prospectus, any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the General Disclosure Package and the Prospectus, or as would not reasonably be expected, in the aggregate, to result in a Material Adverse Effect. Since the respective dates as of which information is given in the General Disclosure Package and the Prospectus, there has not been any change in the equity capital, net current assets, short-term debt or long-term debt of the Company or any of its subsidiaries or any adverse change in or affecting the condition (financial or otherwise), results of operations, properties, management, operations or business of the Company and its subsidiaries taken as a whole, in each case except as would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

(t) The Company and each of its subsidiaries have filed all federal, state, local and foreign tax returns required to be filed through the date hereof, subject to permitted extensions, and have paid all taxes due, and no tax deficiency has been determined adversely to the Company or any of its subsidiaries, nor does the Company have any knowledge of any tax deficiencies that have been, or would reasonably be expected to be asserted against the Company and any of its subsidiaries, except any of the foregoing that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(u) Neither the Company nor any of its subsidiaries is, and after giving effect to the offering and sale of the Placement Shares and the application of the proceeds thereof as described under “Use of Proceeds” in the Prospectus and the General Disclosure Package, none of them will be, an “investment company” or a company “controlled” by an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder.

(v) The Company has not taken, directly or indirectly, any action designed to or that would reasonably be expected to cause or result in the stabilization or manipulation of the price of the Common Stock in connection with the offering of the Placement Shares.

(w) No relationship, direct or indirect, exists between or among the Company or its affiliates, on the one hand, and the directors, officers, shareholders, customers or suppliers of the Company, on the other hand, that is required by the 1933 Act and the 1933 Act Regulations to be described in the Registration Statement, the General Disclosure Package or the Prospectus which is not so described.

(x) The Company and each of its subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by them, in each case free and clear of all Liens, except such Liens as are described in each of the Registration Statement, the General Disclosure Package and the Prospectus or which would not reasonably be expected to have a Material Adverse Effect. All assets held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases, with such exceptions as do not interfere with the use made and proposed to be made of such assets by the Company and its subsidiaries, except where the invalidity or unenforceability of any such lease would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

(y) Except as would not reasonably be expected to result in material liability to the Company or any of its subsidiaries, (A) each “employee benefit plan” (within the meaning of Section 3(3) of the Employee Retirement Security Act of 1974, as amended (“**ERISA**”), other than a “multiemployer plan,” within the meaning of Section 4001(c)(3) of ERISA), that is sponsored, maintained or contributed to, or required to be contributed to, by the Company or any member of its “Controlled Group” (defined as any organization which is a member of a controlled group of corporations with the Company within the meaning of Section 414 of the Internal Revenue Code of 1986, as amended (the “**Code**”)) (each a “**Plan**”) has been maintained in compliance with its terms and with the requirements of all applicable statutes, rules and regulations, including ERISA and the Code; (B) no prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, has occurred with respect to any Plan, excluding transactions effected pursuant to a statutory or administrative exemption; and (C) each Plan that is intended to be qualified under Section 401(a) of the Code is so qualified, and to the knowledge of the Company, nothing has occurred, whether by action or by failure to act, which would cause the loss of such qualification. Neither the Company nor any of its subsidiaries has incurred, or reasonably expects to incur, any material liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guaranty Corporation in the ordinary course and without default) in respect of a Plan or a “multiemployer plan,” within the meaning of Section 4001(c)(3) of ERISA.

(z) Neither the Company nor any of its subsidiaries, nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries, has, in the course of its actions for, or on behalf of, the Company or any of its subsidiaries (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any domestic government official, “foreign official” (as defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (collectively, the “**FCPA**”)) or employee from corporate funds; (iii) violated or is in violation of any provision of the FCPA, U.K. Bribery Act 2010, or any other applicable anti-bribery statute or regulation; or (iv) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment; and the Company and its subsidiaries and, to the knowledge of the Company, the Company’s affiliates have conducted their respective businesses in compliance with the FCPA, U.K. Bribery Act 2010, and all other applicable anti-bribery statutes and regulations and have instituted and maintain policies and procedures designed to ensure continued compliance therewith.

(aa) The operations of the Company and its subsidiaries are and have been conducted at all times in material compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “**Money Laundering Laws**”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(bb) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is (i) currently subject to any sanctions administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“**OFAC**”), the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty’s Treasury, or other relevant sanctions authority (collectively, “**Sanctions**”); or (ii) located, organized or resident in a country, region or territory that is the subject of Sanctions (including, without limitation, Crimea, Cuba, Iran, North Korea and Syria). The Company will not directly or indirectly use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of or business with any person, or in any country, region or territory, that is currently the subject or target of Sanctions in violation of applicable law. Since the Company’s formation, the Company and its subsidiaries have not knowingly engaged in, are not now knowingly engaged in, and will not plan to engage in, any dealings or transactions with any individual or entity, or in any country or territory, that at the time of the dealing or transaction is or was the subject or target of Sanctions in violation of applicable law.

(cc) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Company has established and maintains disclosure controls and procedures (as defined in Rules 13a-15 and 15d-15 under the Exchange Act), which (i) are designed to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to the Company’s principal executive officer and its principal financial officer by others within those entities, particularly during the periods in which the periodic reports required under the Exchange Act are being prepared; (ii) have been evaluated by management of the Company for effectiveness as of the end of the Company’s most recent fiscal quarter; and (iii) are effective in all material respects to perform the functions for which they were established. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, since the end of the Company’s most recent audited fiscal year, there has been (1) no material weakness or significant deficiency in the Company’s internal control over consolidated financial reporting (whether or not remediated) other than as disclosed to B. Riley prior to the date hereof and (2) no change in the Company’s internal control over consolidated financial reporting that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over consolidated financial reporting.

(dd) Except as described in each of the Registration Statement, the General Disclosure Package and the Prospectus, (i) there are no proceedings that are pending, or to the knowledge of the Company, threatened, against the Company or any of its subsidiaries under any laws, regulations, ordinances, rules, orders, judgments, decrees, permits or other legal requirements of any governmental authority, including without limitation any international, foreign, national, state, provincial, regional, or local authority, relating to pollution, the protection of human health or safety, the environment, or natural resources, or to use, handling, storage, manufacturing, transportation, treatment, discharge, disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants (“**Environmental Laws**”) in which a governmental authority is also a party, (ii) the Company and its subsidiaries are not aware of any material issues regarding compliance with Environmental Laws, including any pending or proposed Environmental Laws, or liabilities or other obligations under Environmental Laws or concerning hazardous or toxic substances or wastes, pollutants or contaminants, and (iii) none of the Company and its subsidiaries anticipates material capital expenditures relating to Environmental Laws, except, in the case of (i), (ii) and (iii) above, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(ee) The Company and its subsidiaries own or possess adequate rights to use all material patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses, know-how, software, systems and technology (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures) necessary for the conduct of their respective businesses, as being conducted and as described in each of the Registration Statement, the General Disclosure Package and the Prospectus, and have no reason to believe that the conduct of their respective businesses will conflict with, and have not received any notice of any claim of conflict with, any such rights of others, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(ff) Neither the Company nor any of its subsidiaries is a party to any contract, agreement or understanding with any person (other than this Agreement) that would give rise to a valid claim against any of them or B. Riley for a brokerage commission, finder's fee or like payment in connection with the offering and sale of the Placement Shares.

(gg) Neither the Company nor any of its subsidiaries (i) is in violation of its charter or certificate of incorporation, bylaws, or similar organizational documents, (ii) is in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant, condition or other obligation contained in any indenture, mortgage, deed of trust, loan agreement, license or other agreement or instrument to which it is a party or by which it is bound or to which any of its properties or assets is subject, or (iii) is in violation of any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over it or its property or assets or has failed to obtain any license, permit, certificate, franchise or other governmental authorization or permit necessary to the ownership of its property or to the conduct of its business, except in the case of clauses (ii) and (iii), as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(hh) The statistical and market-related data included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus are based on or derived from sources that the Company believes to be reliable in all material respects and, to the extent required, the Company has obtained the written consent to the use of such data from such sources.

(ii) The Company acknowledges and agrees that B. Riley is acting solely in the capacity of an arm's length contractual counterparty to the Company with respect to the offering of the Placement Shares contemplated hereby (including in connection with determining the terms of the offering) and not as financial advisors or fiduciaries to, or agents of, the Company or any other person. Additionally, B. Riley is not advising the Company or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Company shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and B. Riley shall not have any responsibility or liability to the Company with respect thereto. Any review by B. Riley of the Company and the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of B. Riley and shall not be on behalf of the Company or any other person.

(jj) The Company and each of its subsidiaries carry, or are covered by, insurance from insurers of recognized financial responsibility in such amounts and covering such risks as management believes is adequate in all material respects for the conduct of their respective businesses and the value of their respective properties. All policies of insurance of the Company and its subsidiaries are in full force and effect; the Company and each of its subsidiaries are in compliance with the terms of such policies in all material respects; and neither the Company nor any of its subsidiaries has received notice from any insurer or agent of such insurer that material capital improvements or other material expenditures are required or necessary to be made in order to continue such insurance and there are no material claims by the Company or any of its subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause. Neither the Company nor any such subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not reasonably be expected to have a Material Adverse Effect.

(kk) Except (A) as described in the Registration Statement, the General Disclosure Package and the Prospectus or (B) as would not reasonably be expected to have a Material Adverse Effect, no labor disturbance by or dispute with the employees of the Company or any of its subsidiaries exists or, to the knowledge of the Company, is threatened.

(ll) The Company and its subsidiaries have such permits, licenses, sub-licenses, patents, franchises, certificates of need and other approvals or authorizations of governmental or regulatory authorities ("**Permits**") as are necessary under applicable law to own or lease their properties and conduct their businesses in the manner described in the General Disclosure Package and the Prospectus, except for any of the foregoing that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or except as described in each of the General Disclosure Package and the Prospectus. The Company and each of its subsidiaries have fulfilled and performed all of its obligations with respect to the Permits, and no event has occurred that allows, or after notice or lapse of time would allow, revocation or termination thereof or results in any other impairment of the rights of the holder or any such Permits, except for any of the foregoing that would not reasonably be expected to have a Material Adverse Effect. Except as described in each of the General Disclosure Package and the Prospectus, neither the Company nor any of its subsidiaries has received notice of any revocation or modification of any such Permits or has any reason to believe that any such Permits will not be renewed in the ordinary course, except for any of the foregoing that would not reasonably be expected to have a Material Adverse Effect.

(mm) The Company and its subsidiaries: (A) are and at all times have been in material compliance with all statutes, rules and regulations applicable to the ownership, testing, development, manufacture, packaging, processing, use, distribution, marketing, labeling, promotion, sale, offer for sale, storage, import, export or disposal of any product under development, manufactured or distributed by the Company or its subsidiaries ("**Applicable Laws**"), (b) have not received any Form 483 from the FDA, notice of adverse finding, warning letter, or other written correspondence or notice from the FDA, the European Medicines Agency (the "**EMA**"), or any other federal, state, local or foreign governmental or regulatory authority alleging or asserting material noncompliance with any Applicable Laws or any licenses, certificates, approvals, clearances, authorizations, permits and supplements or amendments thereto required by any such Applicable Laws ("**Authorizations**"), which would, individually or in the aggregate, result in a Material Adverse Effect; (C) possess all material Authorizations and such Authorizations are valid and in full force and effect and neither the Company nor its subsidiaries is in material violation of any term of any such Authorizations; (D) have not received written notice of any claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action from the FDA, the EMA, or any other federal, state, local or foreign governmental or regulatory authority or third party alleging that any Company product, operation or activity is in material violation of any Applicable Laws or Authorizations and has no knowledge that the FDA, the EMA, or any other federal, state, local or foreign governmental or regulatory authority or third party is considering any such claim, litigation, arbitration, action, suit, investigation or proceeding against the Company; (E) have not received written notice that the FDA, EMA, or any other federal, state, local or foreign governmental or regulatory authority has taken, is taking or intends to take action to limit, suspend, modify or revoke any material Authorizations and has no knowledge that the FDA, EMA, or any other federal, state, local or foreign governmental or regulatory authority is considering such action; and (F) have filed, obtained, maintained or submitted all reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments as required by any Applicable Laws or Authorizations except where the failure to file such reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments would not result in a Material Adverse Effect, and that all such reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments were materially complete and correct on the date filed (or were corrected or supplemented by a subsequent submission).

(nn) The Company has established and administers a compliance program applicable to the Company, to assist the Company and the directors, officers and employees of the Company in complying with applicable regulatory guidelines (including, without limitation, those administered by the FDA and any other foreign, federal, state or local governmental or regulatory authority performing functions similar to those performed by the FDA); except where such noncompliance would not reasonably be expected to have a Material Adverse Effect.

(oo) The preclinical studies and clinical trials conducted by the Company or on behalf of the Company were, and, if still pending are, to the Company's knowledge, being conducted in all material respects in compliance with all Applicable Laws and in accordance with experimental protocols, procedures and controls generally used by qualified experts in the preclinical study and clinical trials of comparable products to those being developed by the Company; the descriptions of the results of such preclinical studies and clinical trials contained in the Registration Statement and the Prospectus are accurate and complete in all material respects, and, except as set forth in the Registration Statement and the Prospectus, the Company has no knowledge of any other clinical trials or preclinical studies, the results of which reasonably call into question the clinical trial or preclinical study results described or referred to in the Registration Statement and the Prospectus when viewed in the context in which such results are described; and the Company has not received any written notices or correspondence from the FDA, the EMA, or any other domestic or foreign governmental agency requiring the termination, suspension or modification of any preclinical studies or clinical trials conducted by or on behalf of the Company that are described in the Registration Statement and the Prospectus or the results of which are referred to in the Registration Statement and the Prospectus.

(pp) The business of the Company and its subsidiaries as described in the Registration Statement and the and the Prospectus is being conducted in compliance with applicable requirements under the Federal Communications Act of 1934, as amended, the Telecommunications Act of 1996 and the regulations issued thereunder, all relevant rules, regulations and published policies of the Federal Communications Commission (the "**FCC**") and any applicable foreign or state telecommunications laws and regulations of a state public service commission or similar state governmental authority with jurisdiction over the Company's operations pursuant to the Governmental Licenses (as defined below) ("**Telecommunications Authorities**") (such laws and regulations, collectively, the "**Telecommunications Laws**"), except as would not, singly or in the aggregate, have a material adverse effect on the Company and its subsidiaries, taken as a whole, and all reports, documents, instruments, information and applications required to be filed pursuant to the rules and regulations of the FCC and any other Telecommunications Authority have been filed. The Company and its subsidiaries possess all permits, licenses, rights of way, approvals, consents and other authorizations issued by the appropriate federal, state or local regulatory agencies or bodies (including the FCC or any other Telecommunications Authority) required for the conduct of the businesses currently operated by the Company and its subsidiaries (collectively, the "**Governmental Licenses**"), except where the failure to possess any such Governmental Licenses would not, singly or in the aggregate, have a material adverse effect on the Company and its subsidiaries, taken as a whole; the Company and its subsidiaries are legally qualified to hold, have all necessary consents, authorizations and approvals relating to, and are in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not, singly or in the aggregate, have a material adverse effect on the Company and its subsidiaries, taken as a whole; all of the Governmental Licenses are valid and in full force, except where the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not, singly or in the aggregate, have a material adverse effect on the Company and its subsidiaries, taken as a whole; there is no outstanding adverse judgment, decree or order that has been issued by the FCC or any other Telecommunications Authority against the Company or any of its subsidiaries and which, singly or in the aggregate, would have a material adverse effect on the Company and its subsidiaries, taken as a whole; and neither the Company nor any of its subsidiaries has received any notice of or is aware of proceedings relating to the revocation or modification of any such Governmental Licenses or that would otherwise affect the operations of the Company or its subsidiaries and which, singly or in the aggregate, would have a material adverse effect on the Company and its subsidiaries, taken as a whole. No event has occurred with respect to the Governmental Licenses which, with the giving of notice or the lapse of time or both, would reasonably be expected to constitute grounds for the FCC's failure to renew such Governmental Licenses or for the revocation of any Governmental License.

(qq) (i)(x) To the knowledge of Company, there has been no security breach or other compromise of any Company's information technology and computer systems, networks, hardware, software, data (including the data of their respective customers, employees, suppliers, vendors and any third party data maintained by or on behalf of them), equipment or technology (collectively, "**IT Systems and Data**") and (y) the Company has not been notified of, and have no knowledge of any event or condition that would reasonably be expected to result in, any security breach or other compromise to their IT Systems and Data; (ii) the Company is presently in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification, except as would not, in the case of this clause (ii), individually or in the aggregate, have a Material Adverse Effect; and (iii) the Company has implemented backup and disaster recovery technology consistent with industry standards and practices.

(rr) Other than with respect to this Agreement, the Company is not a party to any agreement with an agent or underwriter for any other "at the market" or continuous equity transaction.

(ss) The statements set forth in each of the Registration Statement, the General Disclosure Package and the Prospectus under the captions "Description of Common Stock We May Offer" and "Material U.S. Federal Income Tax Considerations to Non-U.S. Holders", insofar as they purport to summarize the provisions of the laws and documents referred to therein, are accurate summaries in all material respects.

Any certificate signed by any officer of the Company or any of its subsidiaries delivered to B. Riley or to counsel for B. Riley pursuant to or in connection with this Agreement or any Terms Agreement shall be deemed a representation and warranty by the Company to B. Riley as to the matters covered thereby.

7. Covenants of the Company. The Company covenants and agrees with B. Riley that:

(a) The Company will promptly notify B. Riley, and if written notice is requested by B. Riley, confirm such notice in writing as soon as reasonably practicable, of (i) the effectiveness of any amendment to the Registration Statement, (ii) the transmittal to the Commission for filing of any supplement or amendment to the Prospectus, (iii) the receipt of any comments from the Commission, (iv) any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or for additional information, and (v) the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose or the Company's receipt of any notice from the Commission of its objection to the use of a shelf registration statement pursuant to Rule 401(g) under the 1933 Act; and the Company will use commercially reasonable efforts to prevent the issuance of any stop order and, if any stop order is issued, to obtain the lifting thereof.

(b) The Company will promptly transmit copies of the Prospectus, properly completed, and any supplement thereto, to the Commission for filing pursuant to the applicable paragraph of Rule 424(b) within the time period prescribed therein, and will take such steps as it deems necessary to ascertain promptly whether the Prospectus transmitted for filing under Rule 424(b) was received for filing by the Commission and, in the event that it was not, it will promptly file such Prospectus. At any time when the Prospectus is required to be delivered (or, but for the exemption in Rule 172 under the 1933 Act, would be required to be delivered) under the 1933 Act or the 1934 Act in connection with sales of any Placement Shares, the Company will give B. Riley notice of its intention to file or prepare any amendment to the Registration Statement or any amendment, supplement or any revision to the Prospectus or any Issuer Free Writing Prospectus, and the Company will furnish B. Riley with copies of any such amendment or supplement or other documents proposed to be filed or used a reasonable amount of time prior to such proposed filing or use, as the case may be, and will not file any such amendment or supplement or other document in a form to which B. Riley or counsel for B. Riley shall reasonably object.

(c) The Company has furnished or will deliver to B. Riley as many signed and conformed copies of the Registration Statement and of each amendment thereto, if any, filed prior to the termination of any offering of the Placement Shares pursuant hereto or any Terms Agreement (including exhibits filed therewith or incorporated by reference therein and documents incorporated or deemed to be incorporated by reference therein) as B. Riley reasonably requests.

(d) The Company has furnished or will deliver to B. Riley, without charge, as many copies of the Prospectus as B. Riley reasonably requested, and the Company has furnished or will deliver to B. Riley, without charge, as many copies of each Issuer Free Writing Prospectus, if any, as B. Riley reasonably requested, and the Company hereby consents to the use of such copies of the Prospectus and each Issuer Free Writing Prospectus, if any, by B. Riley for purposes permitted by the 1933 Act. The Company will furnish to B. Riley, from time to time during the period when the Prospectus is required to be delivered (or, but for the exemption in Rule 172 under the 1933 Act, would be required to be delivered) under the 1933 Act or the 1934 Act in connection with sales of the Placement Shares, such number of copies of the Prospectus (as amended or supplemented) as B. Riley may reasonably request for the purposes contemplated by the 1933 Act, the 1933 Act Regulations, or the 1934 Act Regulations. The Prospectus and any amendments or supplements thereto furnished to B. Riley will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(e) If at any time when a prospectus is required to be delivered (or, but for the exemption in Rule 172 under the 1933 Act, would be required to be delivered) under the 1933 Act or the 1934 Act in connection with sales of the Placement Shares any event shall occur or condition exist as a result of which it is necessary, upon the advice of counsel for B. Riley or counsel for the Company, to amend or supplement the Prospectus in order that the Prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, or if it shall be necessary, upon the advice of either such counsel, at any such time to amend or supplement the Registration Statement or the Prospectus in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations, then the Company will promptly prepare and, subject to Section 7(b), file with the Commission such amendment or supplement, whether by filing documents pursuant to the 1933 Act, the 1934 Act or otherwise, as may be necessary to correct such untrue statement or omission or to make the Registration Statement and Prospectus comply with such requirements, and the Company will furnish to B. Riley a reasonable number of copies of such amendment or supplement. If an event or development occurs as a result of which the General Disclosure Package contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at the time it is used, not misleading, the Company will promptly notify B. Riley and will promptly amend or supplement in a manner reasonably satisfactory to B. Riley, at its own expense, the General Disclosure Package to eliminate or correct such untrue statement or omission. If at any time following the issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement (or any other registration statement relating to the Placement Shares) or the Prospectus or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at that subsequent time, not misleading, the Company will promptly notify B. Riley and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

(f) The Company will cooperate with B. Riley to qualify the Placement Shares for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as B. Riley may reasonably designate and to maintain such qualifications in effect so long as required to complete the distribution of the Placement Shares; *provided* that the Company shall not be obligated to file any general consent or otherwise subject itself to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

(g) The Company will make generally available to its security holders as soon as practicable, but in any event not later than 15 months after the end of the Company's current fiscal quarter, an earnings statement covering a 12-month period that satisfies the provisions of Section 11(a) and Rule 158 of the 1933 Act Regulations.

(h) The Company, during the period when a prospectus is required to be delivered (or, but for the exemption in Rule 172 under the 1933 Act, would be required to be delivered) under the 1933 Act or the 1934 Act in connection with sales of the Placement Shares, will file all documents required to be filed with the Commission pursuant to Section 13, 14 or 15 of the 1934 Act within the time period prescribed by the 1934 Act and the 1934 Act Regulations.

(i) During the period when a prospectus is required to be delivered (or, but for the exemption in Rule 172 under the 1933 Act, would be required to be delivered) under the 1933 Act or the 1934 Act in connection with sales of the Placement Shares, the Company will use commercially reasonable efforts to cause the Placement Shares to be listed on Nasdaq.

(j) Whether or not the transactions contemplated in this Agreement or by any Terms Agreement are consummated or this Agreement or all Terms Agreements are terminated, the Company will pay all expenses incident to the performance of its obligations under this Agreement and any Terms Agreement, including (i) the reproduction and filing of this Agreement and any Terms Agreement, (ii) the preparation, issuance and delivery of the Placement Shares to B. Riley, including any stock transfer taxes payable in connection therewith, (iii) the fees and disbursements of the Company's counsel and accountants, (iv) the qualification of the Placement Shares under securities laws in accordance with the provisions of Section 7(f), including filing fees and the related reasonable and documented fees and expenses of counsel for B. Riley in connection therewith and in connection with the preparation of any Blue Sky Survey, if applicable, (v) the reasonable and documented out-of-pocket fees and disbursements of counsel to B. Riley (x) not to exceed \$65,000 in connection with the filing of this Agreement and (y) not to exceed \$5,000 per calendar quarter thereafter in connection with updates at the time of a Bring-Down Date, (vi) the printing and delivery to B. Riley of copies of the Registration Statement and of each amendment thereto, the Prospectus, any Permitted Free Writing Prospectus and any amendments or supplements thereto, (vii) all fees and expenses incurred with respect to the listing of the Placement Shares on Nasdaq and for clearance, settlement and book entry transfer through the Depositary Trust Company ("**DTC**"), and (viii) the fees and expenses, if any, incurred with respect to any filing with FINRA (if applicable). The Company also will pay or cause to be paid: (i) the cost and charges of any transfer agent or registrar, and (ii) all other costs and expenses incident to the performance of its obligations hereunder which are not otherwise specifically provided for in this Section 7(j).

(k) The Company will use the Net Proceeds as described in the Prospectus in the section entitled "Use of Proceeds."

(l) If any Agency Transactions or Principal Transactions are pending, and have not been suspended or terminated by the Company in accordance with this Agreement or a Terms Agreement, as applicable, the Company shall provide B. Riley notice as promptly as reasonably possible before it offers to sell, contracts to sell, sells, grants any option to sell or otherwise disposes of any Common Stock (other than Placement Shares offered pursuant to the provisions of this Agreement or any Terms Agreement) or securities convertible into or exchangeable for Common Stock, warrants or any rights to purchase or acquire Common Stock; *provided*, that such notice shall not be required in connection with the (i) issuance, grant or sale of Common Stock, options to purchase Common Stock or Common Stock issuable upon the exercise of options or other equity awards pursuant to any stock option, stock bonus or other stock plan or arrangement described in the Prospectus, (ii) the issuance of securities in connection with an acquisition, merger or sale or purchase of assets, (iii) the issuance or sale of Common Stock pursuant to any dividend reinvestment plan that the Company may adopt from time to time provided the implementation of such is disclosed to B. Riley in advance or (iv) any shares of common stock issuable upon the exchange, conversion or redemption of securities or the exercise of warrants, options or other rights in effect or outstanding.

(m) The Company will, at any time during which any Agency Transactions or Principal Transactions, as applicable, are pending, and have not been suspended or terminated by the Company in accordance with this Agreement or a Terms Agreement, as applicable, advise B. Riley promptly after it shall have received notice or obtained knowledge thereof, of any information or fact that would alter or affect in any material respect any opinion, certificate, letter or other document provided to B. Riley pursuant to this Agreement or any Terms Agreement.

(n) The Company will cooperate with any reasonable due diligence review requested by B. Riley or its counsel in connection with the transactions contemplated hereby or by any Terms Agreement, including, without limitation, providing information and making available appropriate documents and senior corporate officers of the Company, during regular business hours, as B. Riley may reasonably request.

(o) The Company agrees that on such dates as the 1933 Act shall require, the Company will (i) file a prospectus supplement with the Commission under the applicable paragraph of Rule 424(b) under the 1933 Act and (ii) deliver such number of copies of each such prospectus supplement to each exchange or market on which such sales were effected as may be required by the rules or regulations of such exchange or market. The Company shall disclose in its quarterly reports on Form 10-Q and in its annual report on Form 10-K, the number of the Placement Shares sold through B. Riley under this Agreement and any Terms Agreement, and the gross proceeds and Net Proceeds to the Company from the sale of the Placement Shares and the compensation paid by the Company with respect to sales of the Placement Shares pursuant to this Agreement during the relevant quarter or, in the case of an Annual Report on Form 10-K, during the fiscal year covered by such Annual Report and the fourth quarter of such fiscal year.

(p) On or prior to the First Delivery Date and each time (i) the Company files the Prospectus relating to the Placement Shares or amends or supplements the Registration Statement or the Prospectus relating to the Placement Shares (other than a prospectus supplement filed in accordance with Section 7(o) of this Agreement) by means of a post-effective amendment, sticker, or supplement but not by means of incorporation of document(s) by reference to the Registration Statement or the Prospectus relating to the Placement Shares; (ii) the Company files an annual report on Form 10-K under the 1934 Act; (iii) the Company files its quarterly reports on Form 10-Q under the 1934 Act; or (iv) the Company files a report on Form 8-K containing amended financial information (other than an earnings release and only if B. Riley reasonably determines that the information contained in such Form 8-K of the Company is material) under the 1934 Act (each date of filing of one or more of the documents referred to in clauses (i) through (iv) shall be a “**Bring-Down Date**”); the Company shall furnish B. Riley with a certificate, in the form attached hereto as Exhibit 7(p) within (A) three (3) Trading Days of any Bring-Down Date, other than a Bring-Down Date triggered by the Company filing an annual report on Form 10-K under the 1934 Act (a “**10-K Bring-Down Date**”) or (B) ten (10) Trading Days of any 10-K Bring-Down Date, in each case if requested by B. Riley. The requirement to provide a certificate under this Section 7(p) shall be waived for any Bring-Down Date occurring at a time at which no Agency Transaction is pending or Principal Transaction is pending or ongoing, which waiver shall continue until the earlier to occur of the date the Company delivers a Placement Notice or enters into a Terms Agreement hereunder (which for such calendar quarter shall be considered a Bring-Down Date) and the next occurring Bring-Down Date; *provided, however*, that such waiver shall not apply for a 10-K Bring-Down Date. Notwithstanding the foregoing, if the Company subsequently decides to sell Placement Shares in an Agency Transaction or Principal Transaction following a Bring-Down Date when the Company relied on such waiver and did not provide B. Riley with a certificate under this Section 7(p), then before the Company enters into a Terms Agreement or delivers a Placement Notice, the Company shall provide B. Riley with a certificate, in the form attached hereto as Exhibit 7(p), dated the date of such Placement Notice for an Agency Transaction and with respect to any Principal Transaction pursuant to a Terms Agreement, the certificate in the form attached hereto as Exhibit 7(p) shall be delivered at the applicable Principal Settlement Date.

(q) On or prior to the First Delivery Date, the Company shall cause to be furnished to B. Riley a written opinion and a negative assurance letter of K&L Gates LLP (“**Company Counsel**”), or other counsel reasonably satisfactory to B. Riley, in form and substance reasonably satisfactory to B. Riley and its counsel. Thereafter, within (A) three (3) Trading Days of each Bring-Down Date, other than a 10-K Bring-Down Date, or (B) ten (10) Trading Days of each 10-K Bring-Down Date, with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit 7(p) for which no waiver is applicable, the Company shall cause to be furnished to B. Riley a negative assurance letter of Company Counsel in form and substance reasonably satisfactory to B. Riley and its counsel; *provided, however*, that in lieu of such negative assurance letters for subsequent Bring-Down Dates, counsel may furnish B. Riley with a letter (a “**Reliance Letter**”) to the effect that B. Riley may rely on a prior negative assurance letter delivered under this Section 7(q) to the same extent as if it were dated the date of such letter (except that statements in such prior letter shall be deemed to relate to the Registration Statement and the Prospectus as amended or supplemented at such Bring-Down Date).

(r) On or prior to the First Delivery Date and within (A) three (3) Trading Days of each Bring-Down Date, other than a 10-K Bring-Down Date or (B) ten (10) Trading Days of each 10-K Bring-Down Date, other than pursuant to Section 7(p)(iii), with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit 7(p) for which no waiver is applicable, the Company shall cause its independent accountants to furnish B. Riley a letter (the “**Comfort Letter**”), dated the date such Comfort Letter is delivered, in form and substance reasonably satisfactory to B. Riley, (i) confirming that they are an independent registered public accounting firm within the meaning of the 1933 Act and the PCAOB, (ii) stating, as of such date, the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants’ “comfort letters” to B. Riley in connection with registered public offerings (the first such letter, the “**Initial Comfort Letter**”) and (iii) updating the Initial Comfort Letter with any information that would have been included in the Initial Comfort Letter had it been given on such date and modified as necessary to relate to the Registration Statement and the Prospectus, as amended and supplemented to the date of such letter.

(s) The Company will not, directly or indirectly, (i) take any action designed to or that would reasonably be expected to cause or result in the stabilization or manipulation of the price of the Common Stock in connection with the offering of the Placement Shares contemplated hereby or (ii) sell, bid for, or purchase the Common Stock to be issued and sold pursuant to this Agreement or any Terms Agreement, or pay anyone any compensation for soliciting purchases of the Placement Shares other than B. Riley; *provided, however*, that (x) the Company may bid for and purchase shares of its common stock in accordance with Rule 10b-18 under the 1934 Act and (y) nothing herein shall prevent the Company from filing or submitting reports under the 1934 Act or issuing press releases in the ordinary course of business.

(t) Other than a Permitted Free Writing Prospectus, neither B. Riley nor the Company (including its agents and representatives, other than B. Riley in its capacity as such) will make, use, prepare, authorize, approve or refer to any written communication (as defined in Rule 405), required to be filed with the Commission, that constitutes an offer to sell or solicitation of an offer to buy Placement Shares hereunder.

(u) Each Placement Notice delivered by the Company to B. Riley and each execution and delivery by the Company of a Terms Agreement shall be deemed to be (i) an affirmation that the representations, warranties and agreements of the Company herein contained and contained in any certificate delivered to B. Riley pursuant hereto are true and correct at the time of delivery of such Placement Notice or the date of such Terms Agreement, as the case may be, and (ii) an undertaking that such representations, warranties and agreements will be true and correct on any applicable Representation Date, as though made at and as of each such time (it being understood that such representations, warranties and agreements shall relate to the Registration Statement and the Prospectus as amended and supplemented to the time of such Placement Notice acceptance or Terms Agreement, as the case may be).

8. Conditions to B. Riley's Obligations. The obligations of B. Riley hereunder with respect to a Placement Notice or pursuant to any Terms Agreement will be subject to the continuing accuracy and completeness of the representations and warranties made by the Company herein, to the due performance by the Company of its obligations hereunder and thereunder in all material respects, to the completion by B. Riley of a due diligence review satisfactory to B. Riley in its reasonable judgment, and to the continuing satisfaction (or waiver by B. Riley in its sole discretion) of the following additional conditions:

(a) Registration Statement Effective. The Registration Statement shall be effective and shall be available for (i) all sales of Placement Shares issued pursuant to all prior Placement Notices or any Terms Agreements and (ii) the sale of all Placement Shares contemplated to be issued pursuant to the applicable Agency Transaction or Terms Agreement.

(b) No Material Notices. None of the following events shall have occurred and be continuing: (i) receipt by the Company or any of its subsidiaries of any request for additional information from the Commission or any other federal or state governmental authority during the period of effectiveness of the Registration Statement, the response to which would require any post-effective amendments or supplements to the Registration Statement or the Prospectus; (ii) the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; (iii) receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Placement Shares for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; or (iv) the occurrence of any event that makes any material statement made in the Registration Statement or the Prospectus or any material document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in the Registration Statement, related Prospectus or such documents so that, in the case of the Registration Statement, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and, that in the case of the Prospectus, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) No Misstatement or Material Omission. B. Riley shall not have advised the Company that the Registration Statement or Prospectus, or any amendment or supplement thereto, contains an untrue statement of fact that in B. Riley's reasonable opinion is material, or omits to state a fact that in B. Riley's reasonable opinion is material and is required to be stated therein or is necessary to make the statements therein not misleading.

(d) Material Changes. Subsequent to the delivery of the applicable Placement Notice, in the case of any Agency Transaction, or subsequent to the execution of the applicable Terms Agreement, in the case of any Principal Transaction, except as contemplated in the Prospectus and the General Disclosure Package, or disclosed in the Company's reports filed with the Commission, there shall not have been any Material Adverse Effect, or any development that would reasonably be expected to result in a Material Adverse Effect, or a downgrading in or withdrawal of the rating assigned to any of the Company's securities (other than asset backed securities) by any "nationally recognized statistical rating organization," as such term is defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act (a "**Rating Organization**"), or a public announcement by any Rating Organization that it has under surveillance or review its rating of any of the Company's securities (other than asset backed securities), the effect of which, in the case of any such action by a Rating Organization described above, in the reasonable judgment of B. Riley (without relieving the Company of any obligation or liability it may otherwise have), is so material as to make it impracticable or inadvisable to proceed with the offering of the Placement Shares on the terms and in the manner contemplated in the Prospectus.

(e) Company Counsel Legal Opinions. B. Riley shall have received the opinions and negative assurances of Company Counsel required to be delivered pursuant to Section 7(q), on or before the date on which such delivery of such opinion is required pursuant to Section 7(q).

(f) B. Riley Counsel Legal Opinion. B. Riley shall have received from Duane Morris LLP, counsel for B. Riley, such opinion or opinions, on or before the date on which the delivery of the Company Counsel legal opinion is required pursuant to Section 7(q), with respect to such matters as B. Riley may reasonably require, and the Company shall have furnished to such counsel such documents as they reasonably request for enabling them to pass upon such matters.

(g) Comfort Letter. B. Riley shall have received the Comfort Letter required to be delivered pursuant to Section 7(r) on or before the date on which such delivery of such Comfort Letter is required pursuant to Section 7(r).

(h) Representation Certificate. B. Riley shall have received the certificate required to be delivered pursuant to Section 7(p) on or before the date on which delivery of such certificate is required pursuant to Section 7(p).

(i) Secretary's Certificate. On or prior to the First Delivery Date and at each Principal Settlement Date, B. Riley shall have received a certificate, signed on behalf of the Company by its corporate secretary, in form and substance reasonably satisfactory to B. Riley and its counsel.

(j) No Suspension. In the case of an Agency Transaction, from the time of delivery of the applicable Placement Notice until the applicable Settlement Date and, in the case of a Principal Transaction pursuant to a Terms Agreement, from the time and execution and delivery of the Terms Agreement until the applicable Principal Settlement Date, trading in the Common Stock shall not have been suspended on Nasdaq.

(k) Other Materials. On each date on which the Company is required to deliver a certificate pursuant to Section 7(p), the Company shall have furnished to B. Riley such appropriate further information, certificates and documents as B. Riley may have reasonably requested. All such opinions, certificates, letters and other documents shall have been in compliance with the provisions hereof. The Company will furnish B. Riley with such conformed copies of such opinions, certificates, letters and other documents as B. Riley shall have reasonably requested.

(l) 1933 Act Filings Made. All filings with the Commission required by Rule 424 under the 1933 Act to have been filed prior to the issuance of any Placement Notice hereunder or prior to any Principal Settlement Date shall have been made within the applicable time period prescribed for such filing by Rule 424. To the extent required by applicable law, the Company shall file a prospectus supplement or a supplement to a prospectus supplement in connection with any Principal Transaction pursuant to a Terms Agreement within the applicable time period prescribed for such filing by Rule 424.

(m) Approval for Listing. The Placement Shares shall either have been (i) approved for listing on Nasdaq, subject only to notice of issuance, or (ii) the Company shall have filed an application for listing of the Placement Shares on Nasdaq at, or prior to, the issuance of any Placement Notice.

(n) No Termination Event. There shall not have occurred any event that would permit B. Riley to terminate this Agreement pursuant to Section 11(a).

9. Indemnification and Contribution.

(a) Company Indemnification. The Company agrees to indemnify and hold harmless B. Riley, its affiliates, as such term is defined in Rule 501(b) under the 1933 Act, the directors, officers, partners, employees and agents of B. Riley and each person, if any, who controls B. Riley within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact included in the General Disclosure Package, the Prospectus or any Issuer Free Writing Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; *provided* that any such settlement is effected with the written consent of the Company;

(iii) against any and all expense whatsoever, as incurred (including the reasonable and documented out-of-pocket fees and disbursements of counsel chosen by B. Riley), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity provision shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by or on behalf of B. Riley expressly for use in the Registration Statement (or any amendment thereto), or in the General Disclosure Package, the Prospectus or any Issuer Free Writing Prospectus (or any amendment or supplement thereto).

(b) B. Riley Indemnification. B. Riley agrees to indemnify and hold harmless the Company, its directors, each of its officers who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section 9, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), or in the General Disclosure Package, the Prospectus or any Issuer Free Writing Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with written information furnished to the Company by B. Riley expressly for use in the Registration Statement (or any amendment thereto), or in the General Disclosure Package, the Prospectus or such Issuer Free Writing Prospectus (or any amendment or supplement thereto).

(c) Actions against Parties; Notification. Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In case any such action is brought against any indemnified party and such indemnified party seeks or intends to seek indemnity from an indemnifying party, the indemnifying party will be entitled to participate in, and, to the extent that it shall elect, jointly with all other indemnifying parties similarly notified, by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party; *provided*, that if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that a conflict may arise between the positions of the indemnifying party and the indemnified party in conducting the defense of any such action or that there may be legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party to such indemnified party of such indemnifying party's election so to assume the defense of such action and approval by the indemnified party of counsel, the indemnifying party will not be liable to such indemnified party under this Section 9 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless (i) the indemnified party shall have employed separate counsel in accordance with the proviso to the preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the expenses of more than one separate counsel (other than one local counsel in each applicable jurisdiction), reasonably approved by the indemnifying party, representing the indemnified parties who are parties to such action) or (ii) the indemnifying party shall not have employed counsel reasonably satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the action, in each of which cases the fees and expenses of counsel shall be at the expense of the indemnifying party. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 9 (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) **Contribution.** If the indemnification provided for in paragraph (a) or (b) above, as applicable, is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company and B. Riley from the offering of the Placement Shares pursuant to this Agreement and any Terms Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company and B. Riley in connection with the statements or omissions which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Company and B. Riley in connection with the applicable offering of the Placement Shares pursuant to this Agreement and any Terms Agreement shall be deemed to be in the same proportion as the total Net Proceeds from such offering of Placement Shares (before deducting expenses) received by the Company bear to the total commissions received by B. Riley pursuant to this Agreement and any Terms Agreement.

The relative fault of the Company on the one hand and B. Riley on the other hand shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or by B. Riley and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company and B. Riley agree that it would not be just and equitable if contribution pursuant to this Section 9(d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 9(d). The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 9 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 9(d), B. Riley shall not be required to contribute any amount in excess of the total commissions received by it under this Agreement and any Terms Agreement.

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 9, each person, if any, who controls B. Riley within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and each of B. Riley's directors, officers, agents, employees and selling agents shall have the same rights to contribution as B. Riley, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company.

10. **Representations and Agreements to Survive Delivery.** The indemnity and contribution agreements contained in Section 9 of this Agreement and all representations and warranties of the Company herein or in certificates delivered pursuant hereto shall survive, as of their respective dates, regardless of (i) any investigation made by or on behalf of B. Riley, any controlling persons, or the Company (or any of their respective officers, directors or controlling persons), (ii) delivery and acceptance of the Placement Shares and payment therefor or (iii) any termination of this Agreement.

11. Termination

(a) B. Riley shall have the right by giving notice as hereinafter specified at any time to terminate this Agreement if (i) any Material Adverse Effect or any development that could reasonably be expected to result in a Material Adverse Effect has occurred, that, in the reasonable judgment of B. Riley, may materially impair the ability of B. Riley to sell the Placement Shares hereunder, (ii) the Company shall have failed, refused or been unable to perform any agreement on its part to be performed hereunder in any material respect; or (iii) any other condition of B. Riley's obligations hereunder is not fulfilled in any material respect, or (iv) any suspension or limitation of trading in the Placement Shares or in securities generally on Nasdaq shall have occurred. Any such termination shall be without liability of any party to any other party except that the provisions of Section 7(j), Section 9 (Indemnification and Contribution), Section 10 (Representations and Agreements to Survive Delivery), Section 16 (Applicable Law; Consent to Jurisdiction) and Section 17 (Waiver of Jury Trial) hereof shall remain in full force and effect notwithstanding such termination. If B. Riley elects to terminate this Agreement as provided in this Section 11(a), B. Riley shall provide the required notice as specified in Section 12 (Notices).

(b) In the case of any purchase by B. Riley pursuant to a Terms Agreement, the obligations of B. Riley pursuant to such Terms Agreement shall be subject to termination by B. Riley at any time prior to or at the applicable Principal Settlement Date if (A) since the time of execution of the Terms Agreement or the respective dates as of which information is given in the Registration Statement or the Prospectus, (i) there has been any Material Adverse Effect; or (ii) there has occurred any material adverse change in the financial markets in the United States or the international financial markets, any outbreak of hostilities or escalation thereof or other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of which is such as to make it, in the judgment of B. Riley, impracticable or inadvisable to market the Placement Shares or to enforce contracts for the sale of the Placement Shares; or (iii) (A) if trading in any securities of the Company has been suspended or materially limited by the Commission or Nasdaq, or (B) if trading generally on Nasdaq has been suspended or materially limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by said exchange or by such system or by order of the Commission, FINRA or any other governmental authority having jurisdiction; or (iv) if a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States, or (v) if a banking moratorium has been declared by either Federal or New York authorities. If B. Riley elects to terminate its obligations pursuant to this Section 11(b), the Company shall be notified promptly in writing.

(c) The Company shall have the right, by giving three (3) days' notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement. Any such termination shall be without liability of any party to any other party except that the provisions of Section 7(j), Section 9, Section 10, Section 16 and Section 17 hereof shall remain in full force and effect notwithstanding such termination.

(d) B. Riley shall have the right, by giving ten (10) days' notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement. Any such termination shall be without liability of any party to any other party except that the provisions of Section 7(j), Section 9, Section 10, Section 16 and Section 17 hereof shall remain in full force and effect notwithstanding such termination.

(e) Unless earlier terminated pursuant to this Section 11, this Agreement shall automatically terminate upon the issuance and sale of all of the Placement Shares to or through B. Riley on the terms and subject to the conditions set forth herein; *provided* that the provisions of Section 7(j), Section 9, Section 10, Section 16 and Section 17 hereof shall remain in full force and effect notwithstanding such termination.

(f) This Agreement shall remain in full force and effect unless terminated pursuant to Sections 11(a), (c), (d), or (e) above or otherwise by mutual agreement of the parties; *provided, however*, that any such termination by mutual agreement shall in all cases be deemed to provide that Section 7(j), Section 9, Section 10, Section 16 and Section 17 shall remain in full force and effect.

(g) Any termination of this Agreement shall be effective on the date specified in such notice of termination; *provided, however*, that such termination shall not be effective until the close of business on the date of receipt of such notice by B. Riley or the Company, as the case may be. If such termination shall occur prior to the Settlement Date for any sale of Placement Shares, such Placement Shares shall settle in accordance with the provisions of this Agreement.

12. Notices. All notices or other communications required or permitted to be given by any party to any other party pursuant to the terms of this Agreement shall be in writing, unless otherwise specified, and if sent to B. Riley, shall be delivered to:

B. Riley Securities, Inc.
299 Park Avenue, 7th Floor
New York, NY 10171
Attention: General Counsel
Telephone: (212) 457-9947
Email: atmdesk@brileyfin.com

with a copy to:

Duane Morris LLP
1540 Broadway
New York, NY 10036
Attention: Dean M. Colucci
Telephone: (973) 424-2020
Email: dmcolucci@duanemorris.com

and if to the Company, shall be delivered to:

Movano Inc.
6800 Koll Center Parkway
Pleasanton, CA 94566
Attention: J. Cogan
Email: jcogan@movano.com

with a copy to:

K&L Gates LLP
300 South Tryon Street, Suite 1000
Charlotte, NC 28202
Attention: Mark Busch
Telephone: (704) 331-7440
Email: mark.busch@klgates.com

Each party to this Agreement may change such address for notices by sending to the parties to this Agreement written notice of a new address for such purpose. Each such notice or other communication shall be deemed given (i) when delivered personally, by email, or by verifiable facsimile transmission on or before 4:30 p.m., New York City time, on a Business Day or, if such day is not a Business Day, on the next succeeding Business Day, (ii) on the next Business Day after timely delivery to a nationally-recognized overnight courier and (iii) on the Business Day actually received if deposited in the U.S. mail (certified or registered mail, return receipt requested, postage prepaid).

13. Successors and Assigns. This Agreement and any Terms Agreement shall inure to the benefit of and be binding upon the Company and B. Riley and their respective successors and the affiliates, controlling persons, officers and directors referred to in Section 9 hereof. References to any of the parties contained in this Agreement or any Terms Agreement shall be deemed to include the successors and permitted assigns of such party. Nothing in this Agreement or any Terms Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement or any such Terms Agreement, except as expressly provided in this Agreement or such Terms Agreement. Neither party may assign its rights or obligations under this Agreement or any Terms Agreement without the prior written consent of the other party; *provided, however*, that B. Riley may assign its rights and obligations hereunder or under any Terms Agreement to an affiliate of B. Riley without obtaining the Company's consent.

14. Adjustments for Share Splits. The parties acknowledge and agree that all share-related numbers contained in this Agreement or any Terms Agreement shall be adjusted to take into account any share split, share dividend or similar event effected with respect to the Common Stock.

15. Entire Agreement; Amendment; Severability. This Agreement (including all schedules and exhibits attached hereto and Placement Notices issued pursuant hereto), together with any Terms Agreement, constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter hereof. Neither this Agreement, nor any Terms Agreement, nor any term hereof may be amended except pursuant to a written instrument executed by the Company and B. Riley. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the parties as reflected in this Agreement and any Terms Agreement.

16. APPLICABLE LAW; CONSENT TO JURISDICTION. THIS AGREEMENT AND ANY TERMS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAWS. EACH PARTY HEREBY IRREVOCABLY SUBMITS TO THE NON-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 WITH ANY TRANSACTION CONTEMPLATED HEREBY OR BY ANY TERMS AGREEMENT, 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 BROUGHT IN AN INCONVENIENT FORUM OR THAT THE VENUE OF SUCH SUIT, ACTION OR PROCEEDING IS IMPROPER. 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 (CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED) TO SUCH PARTY AT THE ADDRESS IN EFFECT FOR NOTICES TO IT UNDER THIS AGREEMENT 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 MANNER PERMITTED BY LAW.

17. Waiver of Jury Trial. The Company and B. Riley each hereby irrevocably waives any right it may have to a trial by jury in respect of any claim based upon or arising out of this Agreement, any Terms Agreement or any transaction contemplated hereby or thereby.

18. Absence of Fiduciary Relationship. The Company acknowledges and agrees that:

(a) B. Riley has been retained solely to act as an arm's length contractual counterparty to the Company in connection with the sale of the Placement Shares contemplated hereby and any Terms Agreement and that no fiduciary, advisory or agency relationship between the Company and B. Riley has been created in respect of any of the transactions contemplated by this Agreement or any Terms Agreement, irrespective of whether B. Riley has advised or is advising the Company on other matters;

(b) the Company is capable of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement or any Terms Agreement;

(c) the Company has been advised that B. Riley and its affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company and that B. Riley has no obligation to disclose such interests and transactions to the Company by virtue of any fiduciary, advisory or agency relationship; and

(d) the Company waives, to the fullest extent permitted by law, any claims it may have against B. Riley, for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that B. Riley shall have no liability (whether direct or indirect) to the Company in respect of such a fiduciary claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company, including members, partners, employees or creditors of the Company.

19. Counterparts. This Agreement and any Terms Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed Agreement or any Terms Agreement by one party to the other may be made by facsimile or electronic transmission.

[Remainder of Page Intentionally Blank]

If the foregoing correctly sets forth the understanding between the Company and B. Riley, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding agreement between the Company and B. Riley.

MOVANO INC.

By: /s/ J Cogan

Name: J Cogan

Title: Chief Financial Officer

ACCEPTED as of the date first-above written:

B. RILEY SECURITIES, INC.

By: /s/ Patrice McNicoll

Name: Patrice McNicoll

Title: Co-Head of Investment Banking

Signature page to At the Market Issuance Agreement

FORM OF PLACEMENT NOTICE

From: Movano Inc.
To: B. Riley Securities, Inc.
Attention: [●]
Subject: At Market Issuance—Placement Notice
Ladies and Gentlemen:

Pursuant to the terms and subject to the conditions contained in the At the Market Issuance Agreement between Movano Inc., a Delaware corporation (the "Company"), and B. Riley Securities, Inc. ("B. Riley"), dated August [], 2022, the Company hereby requests that B. RILEY sell up to [] of the Company's Common Stock, Par Value \$0.0001 Per Share, at a minimum market price of \$ per share, during the time period beginning [month, day, time] and ending [month, day, time].

Notice Parties

Company

John Mastrototaro jmastrototaro@movano.com

J Cogan jcogan@movano.com

B. Riley

Matt Feinberg mfeinberg@brileyfin.com

Patrice McNicoll pmcnicoll@brileyfin.com

Tom McGlynn tmcglynn@brileyfin.com

with a copy to atmdesk@brileyfin.com

Form of Terms Agreement

From: Movano Inc.
To: B. Riley Securities, Inc.
Attention: [●]
Subject: At Market Issuance—Terms Agreement Principal Sales
Ladies and Gentlemen:

Pursuant to the terms and subject to the conditions contained in the At the Market Issuance Agreement between Movano Inc., a Delaware corporation (the “Company”), and B. Riley Securities, Inc. (“BRS”), dated August [●], 2022, the Company hereby requests that BRS purchase on a principal basis, and resell by any method deemed to be consistent with an “at the market offering” under Rule 415 of the Securities Act, up to [____] of the Company’s Common Stock, at a price to be agreed upon by the Company and BRS, during the time period beginning [month, day, time] and ending [month, day, time]. [*Subject to adjustment to include such other parameters as the parties may mutually agree.*]

Confirmation of each agreed upon principal purchase amount and purchase price may be set forth in the form of an electronic email sent by BRS to the Company at the time of such purchase.

Compensation

B. Riley shall be paid compensation equal to 3.0% of the gross proceeds from the sales of Placement Shares in an Agency Transaction.

Principal Transaction compensation shall be pursuant to the terms of any Terms Agreement executed hereunder.

OFFICER CERTIFICATE

The undersigned, the duly qualified and elected _____ of Movano Inc., a Delaware corporation (“**Company**”), does hereby certify in such capacity and on behalf of the Company, and not in [his/her] individual capacity, pursuant to Section 7(p) of the At the Market Issuance Agreement dated August [], 2022 (the “**Sales Agreement**”), between the Company and B. Riley Securities, Inc., that to the best of the knowledge of the undersigned:

(i) The representations and warranties of the Company in Section 6 of the Sales Agreement (A) to the extent such representations and warranties are subject to qualifications and exceptions contained therein relating to materiality or Material Adverse Effect, are true and correct on and as of the date hereof with the same force and effect as if expressly made on and as of the date hereof, except for those representations and warranties that speak solely as of a specific date and which were true and correct as of such date, and (B) to the extent such representations and warranties are not subject to any qualifications or exceptions, are true and correct in all material respects as of the date hereof as if made on and as of the date hereof with the same force and effect as if expressly made on and as of the date hereof except for those representations and warranties that speak solely as of a specific date and which were true and correct as of such date; and

(ii) The Company has complied with all agreements in all material respects and satisfied all conditions on its part required to be performed or satisfied pursuant to the Sales Agreement at or prior to the date hereof.

By: _____
Name:
Title:

Date: _____



K&L GATES LLP
10TH FLOOR
300 SOUTH TRYON STREET
CHARLOTTE, NC 28202
T 704.331.7440 klgates.com

August 15, 2022

Movano Inc.
6800 Koll Center Parkway
Pleasanton, CA 94566

Ladies and Gentlemen:

We have acted as counsel to Movano Inc., a Delaware corporation (the “Company”), in connection with the issuance and sale (the “Offering”) by the Company from time to time of common stock, par value \$0.0001 per share, of the Company (“Common Stock”), having an aggregate offering price of up to \$50,000,000 (the “Shares”) pursuant to the At the Market Issuance Agreement dated August 15, 2022 (the “Sales Agreement”) by and among the Company and B. Riley Securities, Inc. as sales agent. The Shares have been registered on a Registration Statement on Form S-3 (File No. 333-264116), (such registration statement, including documents incorporated by reference therein and amendments thereto, the “Registration Statement”), filed by the Company with the Securities and Exchange Commission (the “Commission”) on April 4, 2022.

This opinion letter is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933, as amended (the “Securities Act”).

The Company has requested our opinion as to the matters set forth below in connection with the Registration Statement. For the purposes of rendering that opinion, we have examined: (i) the Registration Statement, including the exhibits filed therewith; (ii) the Sales Agreement; (iii) the Company’s prospectus supplement, dated August 15, 2022, filed with the Commission pursuant to Rule 424(b) under the Securities Act (including the documents incorporated or deemed incorporated by reference therein) (the “Prospectus Supplement”); (iv) the Company’s Third Amended and Restated Certificate of Incorporation, as amended through the date hereof (the “Certificate of Incorporation”); (v) the Company’s Amended and Restated Bylaws; (vi) the Company’s stock ledger; and (vii) the corporate action or actions of the Company that provides for the issuance of the Shares (the “Authorizing Resolutions”). We have also made such other investigation as we have deemed appropriate. We have examined and relied upon certificates of public officials and such other documents and instruments, and, as to certain matters of fact that are material to our opinion, we have also relied upon a certificate of an officer of the Company. We have considered such matters of law as we have deemed necessary to render the opinion contained herein.

For the purposes of this opinion letter, we have made assumptions that are customary in opinion letters of this kind, including the assumptions that each document submitted to us is accurate and complete, that each such document that is an original is authentic, that each such document that is a copy conforms to an authentic original, the conformity to the original or final versions of the documents submitted to us as copies or drafts and that all signatures on each such document are genuine. We have further assumed the legal capacity of natural persons. We have not verified any of those assumptions.

In rendering our opinion below, we also have assumed that: (i) the Company will have sufficient authorized and unissued shares of Common Stock at the time of each issuance of Shares pursuant to the Sales Agreement to provide for such issuance, (ii) the issuance of all Shares will be duly noted in the Company's stock ledger upon issuance, (iii) the Sales Agreement constitutes the valid and binding agreement of the parties thereto, enforceable against the parties thereto in accordance with its terms, (iv) prior to the issuance of any of the Shares, a Pricer (as defined in the Authorizing Resolutions) will determine the price and certain other terms of issuance of such Shares in accordance with the Authorizing Resolutions, (v) the Agents will exercise any authority delegated to the Agents by a Pricer pursuant to the Authorizing Resolutions solely in accordance with such delegated authority, and (vi) the Offering will be conducted during the Authorized Term (as defined in the Authorizing Resolutions), the number of Shares sold in the Offering will not exceed the Maximum Share Amount (as defined in the Authorizing Resolutions), and the price of the Shares sold in the Offering will not be less than the Minimum Per Share Price (as defined in the Authorizing Resolutions) unless the Pricing Committee (as defined in the Authorizing Resolutions) approves any proposed modifications to such terms of the Offering as set forth in the Authorizing Resolutions. We have not verified any of those assumptions.

Our opinion set forth below is limited to the DGCL and reported judicial decisions interpreting the DGCL.

Based upon and subject to the foregoing, it is our opinion that the Shares have been duly and validly authorized for issuance by the Company and, when issued and delivered by the Company and paid for pursuant to the Sales Agreement, will be validly issued, fully paid and nonassessable.

The opinion set forth above is subject to the following additional assumptions: (i) the effectiveness of the Registration Statement and any amendment thereto (including any post-effective amendment) under the Securities Act shall not have been terminated, suspended or rescinded, (ii) all Shares offered pursuant to the Registration Statement will be issued and sold (a) in compliance with all applicable federal and state securities laws, rules and regulations and solely in the manner provided in the Registration Statement and the Prospectus Supplement and (b) only upon payment of the consideration fixed therefor in accordance with the Sales Agreement, and (iii) there will not have occurred any change in law or fact affecting the validity of any of the opinions rendered herein with respect thereto. We assume no obligation to update or supplement our opinion to reflect any changes of law or fact that may occur.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Company's Quarterly Report on Form 10-Q filed on August 15, 2022 and to the incorporation by reference of this opinion in the Registration Statement, and to the reference to our firm under the caption "Legal Matters" in the Prospectus Supplement. In giving our consent we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules or regulations thereunder. This opinion is expressed as of the date hereof, and we disclaim any undertaking to advise of any subsequent changes in the facts stated or assumed herein or any subsequent changes in law.

Yours truly,

/s/ K&L Gates LLP
K&L Gates LLP

**CERTIFICATION OF THE PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, John Mastrototaro, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Movano 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(s) 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 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(s) 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.

MOVANO INC.
(Registrant)

Date: August 15, 2022

By: /s/ John Mastrototaro
John Mastrototaro
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF THE PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, J. Cogan, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Movano 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(s) 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 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(s) 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.

MOVANO INC.
(Registrant)

Date: August 15, 2022

By: /s/ J. Cogan
J. Cogan
Chief Financial Officer
(Principal Financial and Accounting Officer)

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Movano Inc. (the "Company") on Form 10-Q for the period ended June 30, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, John Mastrototaro, Chief Executive Officer of the Company, and J. Cogan, 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:

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

A signed original of this written statement required by Section 906 has been provided to Movano Inc. and will be retained by Movano Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

/s/ John Mastrototaro

John Mastrototaro
Chief Executive Officer

/s/ J. Cogan

J. Cogan
Chief Financial Officer

Date: August 15, 2022