

Jaguar Health, Inc.
Form PRER14A
April 09, 2019

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

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934 (Amendment No. 1)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material under §240.14a-12

JAGUAR HEALTH, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
 - (1) Title of each class of securities to which transaction applies:
 - (2) Aggregate number of securities to which transaction applies:
 - (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
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- o Fee paid previously with preliminary materials.
 - o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.
 - (1) Amount Previously Paid:
 - (2) Form, Schedule or Registration Statement No.:
 - (3) Filing Party:
 - (4) Date Filed:
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201 Mission Street, Suite 2375, San Francisco, CA 94105
Tel: 415.371.8300 • Fax: 415.371.8311
<https://jaguar.health>

April [•], 2019

Dear Stockholder:

You are cordially invited to attend the 2019 Annual Meeting of Stockholders (the "Annual Meeting") of Jaguar Health, Inc. (the "Company") to be held at 201 Mission Street, Suite 2375, San Francisco, CA 94105, on Friday, May 3, 2019, at 8:30 a.m., local time.

At the Annual Meeting you will be asked to (i) elect three (3) Class I directors to our Board of Directors, (ii) approve the adoption of an amendment to the Company's Third Amended and Restated Certificate of Incorporation (the "COI") to effect a reverse stock split of the Company's issued and outstanding voting common stock, par value \$0.0001 per share (the "Common Stock") at a ratio not less than 1-for-30 and not greater than 1-for-70, with the exact ratio, if approved and effected at all, to be set within that range at the discretion of the Company's board of directors and publicly announced by the Company on or before November 3, 2019 without further approval or authorization of the Company's stockholders (the "Reverse Stock Split"), (iii) approve an amendment of the Company's 2014 Stock Incentive Plan (the "2014 Plan") to increase the number of shares of Common Stock authorized for issuance under the 2014 Plan such that the aggregate authorized but unissued shares under the 2014 Plan shall equal 12.5% of the issued and outstanding shares of Common Stock on a fully diluted basis calculated as of the earlier of (A) the day immediately after the consummation of the Company's next underwritten public equity offering with gross proceeds of \$5 million or more or (B) July 31, 2019 (collectively, the "Calculation Date"), contingent upon the Reverse Stock Split being approved and effected in accordance with Proposal 3 on, or prior to, the Calculation Date, (iv) approve, for purposes of Nasdaq Rule 5635(d), the issuance of shares of Common Stock upon the exchange of promissory notes and exercise of warrants in one or more private placement transactions that may equal or exceed 19.99% of Common Stock outstanding before such offering, (v) approve, for purposes of Nasdaq Rule 5635(d), the issuance of shares of Common Stock upon the exercise of a warrant issued in connection with the cancellation of a letter of credit that may equal or exceed 19.99% of Common Stock outstanding before such transaction, (vi) approve, for purposes of Nasdaq Rule 5635(d), the issuance of up to 40,000,000 shares of Common Stock that may be issued at the Company's discretion from time to time to Oasis Capital, LLC ("Oasis Capital") under an equity line to be entered between the Company and Oasis Capital and (vii) approve discretionary authority for the Company to adjourn the Annual Meeting, if necessary, to solicit additional proxies in the event that there are not sufficient votes at the time of the Annual Meeting to approve proposals (i) (vii).

It is important that your shares be represented and voted whether or not you plan to attend the Annual Meeting in person. You may vote on the Internet, by telephone or by completing and mailing a proxy card or voting instruction form. Voting over the Internet, by telephone or by mail will ensure your shares are represented at the annual meeting. If you do attend the Annual Meeting, you may, of course, withdraw your proxy should you wish to vote in person. Please read the enclosed information carefully before voting.

Sincerely,

Lisa A. Conte
Chief Executive Officer & President

JAGUAR HEALTH, INC.

201 Mission Street

Suite 2375

San Francisco, CA 94105

NOTICE OF 2019 ANNUAL MEETING OF STOCKHOLDERS

To Be Held May 3, 2019

NOTICE HEREBY IS GIVEN that the 2019 Annual Meeting of Stockholders (the "Annual Meeting") of Jaguar Health, Inc. (the "Company") will be held at 201 Mission Street, Suite 2375, San Francisco, CA 94105, on Friday, May 3, 2019, at 8:30 a.m., local time, for the following purposes:

1. Electing three (3) Class I directors (Proposal 1);
2. Approving the adoption of an amendment to the Company's Third Amended and Restated Certificate of Incorporation (the "COI") to effect a reverse stock split of the Company's issued and outstanding voting common stock, par value \$0.0001 per share (the "Common Stock") at a ratio not less than 1-for-30 and not greater than 1-for-70, with the exact ratio, if approved and effected at all, to be set within that range at the discretion of the Company's board of directors and publicly announced by the Company on or before November 3, 2019 without further approval or authorization of the Company's stockholders (the "Reverse Stock Split") (Proposal 2);
3. Approving an amendment to the Company's 2014 Stock Incentive Plan (the "2014 Plan") to increase the number of shares of Common Stock authorized for issuance under the 2014 Plan such that the aggregate authorized but unissued shares under the 2014 Plan shall equal 12.5% of the issued and outstanding shares of Common Stock on a fully diluted basis calculated as of the earlier of (A) the day immediately after the consummation of the Company's next underwritten public equity offering with gross proceeds of \$5 million or more or (B) July 31, 2019 (collectively, the "Calculation Date"), contingent upon the Reverse Stock Split being approved and effected in accordance with Proposal 2 on, or prior to, the Calculation Date (Proposal 3);
4. Approving, for purposes of Nasdaq Rule 5635(d), the issuance of shares of Common Stock upon the exchange of promissory notes and exercise of warrants in one or more private placement transactions that may equal or exceed 19.99% of Common Stock outstanding before such offering (Proposal 4);
5. Approving, for purposes of Nasdaq Rule 5635(d), the issuance of shares of Common Stock upon the exercise of a warrant issued in connection with the cancellation of a letter of credit that may equal or exceed 19.99% of Common Stock outstanding before such transaction (Proposal 5);
6. Approving, for purposes of Nasdaq Rule 5635(d), the issuance of up to 40,000,000 shares of Common Stock that may be issued at the Company's discretion from time to time to Oasis Capital, LLC ("Oasis Capital") under an equity line to be entered into between the Company and Oasis Capital (Proposal 6);
7. Approving a proposal to grant discretionary authority to adjourn the Annual Meeting, if necessary, to solicit additional proxies in the event that there are not sufficient votes at the time of the Annual Meeting to approve Proposals 1-6 (Proposal 7); and
8. Such other business as properly may come before the Annual Meeting or any adjournment or postponement thereof.

The board of directors is not aware of any other business to be presented to a vote of the stockholders at the Annual Meeting. Information relating to the above matters is set forth in the attached Proxy Statement. Stockholders of record at the close of business on March 27, 2019 are

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entitled to receive notice of and to vote at the Annual Meeting and any adjournment or postponement thereof.

By Order of the Board of Directors.

Lisa A. Conte
Chief Executive Officer & President

San Francisco, California
April [•], 2019

Information relating to the above matters is set forth in the attached Proxy Statement. Stockholders of record at the close of business on March 27, 2019 are entitled to receive notice of and to vote at the Annual Meeting and any adjournment or postponement thereof. If you have questions concerning the proposals in the Proxy Statement, would like additional copies of the Proxy Statement or need help in voting your shares of Common Stock, please contact our proxy solicitor Georgeson LLC at 866-821-0284.

Important Notice Regarding the Availability of Proxy Materials for the Stockholder Meeting to be Held on May 3, 2019. The proxy materials are available at
<https://jaguarhealth.gcs-web.com/financial-information/annual-reports>

PLEASE CAREFULLY READ THE PROXY STATEMENT. EVEN IF YOU EXPECT TO ATTEND THE ANNUAL MEETING, PLEASE PROMPTLY COMPLETE, EXECUTE, DATE AND RETURN THE ENCLOSED PROXY CARD OR VOTING INSTRUCTION FORM IN THE ACCOMPANYING POSTAGE-PAID ENVELOPE. NO POSTAGE IS NECESSARY IF MAILED IN THE UNITED STATES. YOU MAY ALSO VOTE ELECTRONICALLY VIA THE INTERNET OR BY TELEPHONE BY FOLLOWING THE INSTRUCTIONS ON THE ENCLOSED PROXY CARD OR VOTING INSTRUCTION FORM. IF YOU VOTE BY INTERNET OR TELEPHONE, THEN YOU NEED NOT RETURN A WRITTEN PROXY CARD OR VOTING INSTRUCTION FORM BY MAIL. STOCKHOLDERS WHO ATTEND THE ANNUAL MEETING MAY REVOKE THEIR PROXIES AND VOTE IN PERSON IF THEY SO DESIRE (AS DESCRIBED BELOW).

JAGUAR HEALTH, INC.

**201 Mission Street
Suite 2375
San Francisco, CA 94105**

PRELIMINARY PROXY STATEMENT SUBJECT TO COMPLETION

FOR THE 2019 ANNUAL MEETING OF STOCKHOLDERS To Be Held May 3, 2019 GENERAL INFORMATION ABOUT THE ANNUAL MEETING

We are furnishing this Proxy Statement to our stockholders in connection with the solicitation of proxies by our board of directors to be voted at the 2019 Annual Meeting of Stockholders (the "Annual Meeting") and at any adjournment or postponement thereof. The Annual Meeting will be held at 201 Mission Street, Suite 2375, San Francisco, CA 94105, on Friday, May 3, 2019, at 8:30 a.m., local time.

When used in this Proxy Statement, the terms the "Company," "we," "us," "our" and "Jaguar" refer to Jaguar Health, Inc.

The Securities and Exchange Commission ("SEC") rules require us to provide an annual report to stockholders who receive this Proxy Statement. Accordingly, we have enclosed our Annual Report on Form 10-K for the fiscal year ended December 31, 2018 (the "Annual Report"), which we expect to be filed on or about April 10, 2019, with this Proxy Statement, and we will also provide copies of such documents to brokers, dealers, banks, voting trustees and their nominees for the benefit of their beneficial owners of record. Pursuant to rules adopted by the SEC, the Company is also providing access to its proxy materials over the Internet. All stockholders will have the ability to access the proxy materials at <https://jaguarhealth.gcs-web.com/financial-information/annual-reports>.

The date on which the Notice of 2019 Annual Meeting of Stockholders, this Proxy Statement, the Annual Report and form of proxy card or voting instruction form are first being sent or given to stockholders is on or about April [•], 2019.

GENERAL INFORMATION ABOUT VOTING

Record Date

As of March 27, 2019, the record date for the Annual Meeting (the "Record Date"), 59,415,042 shares of our voting common stock, par value \$0.0001 per share (the "Common Stock"), and 5,524,926 shares of our Series A Convertible Participating Preferred Stock, par value \$0.0001 per share (the "Preferred Stock"), were issued and outstanding. Only holders of record of our Common Stock and our Preferred Stock as of the close of business on the record date are entitled to notice of, and to vote at, the Annual Meeting or at any adjournment or postponement thereof. A list of such holders will be open to the examination of any stockholder for any purpose germane to the meeting at Jaguar

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Health, Inc., 201 Mission Street, Suite 2375, San Francisco, CA 94105 for a period of ten (10) days prior to the Annual Meeting. The list of stockholders will also be available for such examination at the Annual Meeting. In addition, as of March 27, 2019, 40,301,237 shares of our non-voting common stock were outstanding, but these shares will have no voting rights with respect to any of the proposals being considered at the Annual Meeting. Each share of non-voting common stock is convertible into one-fifteenth (1/15th) of a share of Common Stock at the election of the holder thereof or automatically upon transfer to anyone that is not Nantucket Investments Limited or an affiliated investment fund. The use of the capitalized term "Common Stock" in this Proxy Statement and related materials refers only to the Company's voting common stock and does not include the Company's convertible non-voting common stock.

Voting, Quorum and Revocability of Proxies

Each share of Common Stock entitles the holder of record thereof to one vote. Each share of Preferred Stock entitles the holder of record thereof to 0.574 votes (on an as converted to Common Stock basis, calculated assuming that the conversion price for the Preferred Stock for this purpose only is \$2.9025 (subject to appropriate adjustment in the event of any stock dividend, stock split, reverse stock split, combination or other similar recapitalization) as a result of limitations imposed by Nasdaq Listing Rule 5640 (the "Nasdaq Voting Limitations")) (as provided in the Certificate of Designation of the Series A Convertible Participating Preferred Stock (as amended, the "Certificate of Designation")). No other securities are entitled to be voted at the Annual Meeting. Each stockholder holding Common Stock or Preferred Stock may vote in person or by proxy on all matters that properly come before the Annual Meeting and any adjournment or postponement thereof (except as otherwise described below).

Stockholders have no right to cumulative voting as to any matter, including the election of directors.

The presence, in person or by proxy, of stockholders entitled to vote a majority of the shares of Common Stock and Preferred Stock (on an as converted to Common Stock basis subject to the Nasdaq Voting Limitations) outstanding on the Record Date will constitute a quorum for purposes of voting at the Annual Meeting. Properly executed proxies marked "ABSTAIN" or "WITHHOLD AUTHORITY," as well as broker non-votes, will be counted as "present" for purposes of determining the existence of a quorum. If a quorum should not be present, the Annual Meeting may be adjourned from time to time until a quorum is obtained.

Our board of directors is soliciting proxies for use in connection with the Annual Meeting and any postponement or adjournment thereof. If you vote your shares via the Internet or by telephone or execute and return the proxy card or voting instruction form accompanying this Proxy Statement, your shares will be voted as you direct on all matters properly coming before the Annual Meeting for a vote. For Proposals 1, 2, 3, 4, 5, 6, and 7, you may vote "FOR," "AGAINST" or "ABSTAIN."

If your shares are registered directly in your name with our transfer agent, Computershare Trust Company, N.A. (the "Transfer Agent"), you are considered, with respect to those shares, the stockholder of record. As the stockholder of record, you have the right to grant your proxy directly to the Company or to vote your shares in person at the Annual Meeting. If you hold your shares in a stock brokerage account or through a bank or other financial intermediary, you are considered the beneficial owner of shares held in street name. Your bank, broker or other financial intermediary is considered, with respect to those shares, the stockholder of record. As the beneficial owner, you have the right to direct your bank, broker or other financial intermediary on how to vote your shares, but because you are not the stockholder of record, you may not vote these shares in person at the Annual Meeting unless you obtain a signed proxy from the record holder giving you the right to vote the shares. As a beneficial owner, you are, however, welcome to attend the Annual Meeting.

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Even if you plan to attend the Annual Meeting, we recommend that you also submit your proxy as described in the proxy card or voting instruction form, so that your vote will be counted if you later decide not to attend the Annual Meeting. Submitting your proxy now will not prevent you from voting your shares in person by written ballot at the Annual Meeting if you desire to do so, as your proxy is revocable at your option.

You may revoke your proxy by (a) delivering to the Secretary of the Company at or before the Annual Meeting a written notice of revocation bearing a later date than the proxy, (b) duly executing a subsequent proxy and delivering it to the Secretary of the Company at or before the Annual Meeting or (c) attending the Annual Meeting and voting in person (although attendance at the Annual Meeting will not in and of itself constitute revocation of a proxy). Any written notice revoking a proxy should be delivered at or prior to the Annual Meeting to: Jaguar Health, Inc., 201 Mission Street, Suite 2375, San Francisco, CA 94105, Attention: Karen S. Wright. Beneficial owners of our Common Stock who are not holders of record and wish to revoke their proxy should contact their bank, brokerage firm or other custodian, nominee or fiduciary to inquire about how to revoke their proxy.

The shares represented by all valid proxies received will be voted in the manner specified. Where specific choices are not indicated on a validly executed and delivered proxy, the shares represented by such proxy will be voted: (i) "FOR" the nominees for director named in this Proxy Statement, (ii) "FOR" the approval of the amendment to the Company's Third Amended and Restated Certificate of Incorporation (the "COI") to effect a reverse stock split of the Company's issued and outstanding Common Stock at a ratio of not less than 1-for-30 and not greater than 1-for-70, with the exact ratio, if approved and effected at all, to be set within that range at the discretion of the Company's board of directors and publicly announced by the Company on or before November 3, 2019 without further approval or authorization of the Company's stockholders (the "Reverse Stock Split"), (iii) "FOR" the approval of an amendment to the Company's 2014 Stock Incentive Plan (the "2014 Plan") to increase the number of shares of Common Stock authorized for issuance under the 2014 Plan such that the aggregate authorized but unissued shares under the 2014 Plan shall equal 12.5% of the issued and outstanding shares of Common Stock on a fully diluted basis calculated as of the earlier of (A) the day immediately after the consummation of the Company's next underwritten public equity offering with gross proceeds of \$5 million or more or (B) July 31, 2019 (collectively, the "Calculation Date"), contingent upon the Reverse Stock Split being approved and effected in accordance with Proposal 2 on, or prior to, the Calculation Date, (iv) "FOR" the approval, for purposes of Nasdaq Rule 5635(d), of the issuance of shares of Common Stock upon the exchange of promissory notes and exercise of warrants in one or more private placement transactions that may equal or exceed 19.99% of Common Stock outstanding before such offering, (v) "FOR" the approval, for purposes of Nasdaq Rule 5635(d), the issuance of shares of Common Stock upon the exercise of a warrant issued in connection with the cancellation of a letter of credit that may equal or exceed 19.99% of Common Stock outstanding before such transaction, (vi) "FOR" the approval, for purposes of Nasdaq Rule 5635(d), of the issuance of up to 40,000,000 shares of Common Stock that may be issued at the Company's discretion from time to time to Oasis Capital, LLC ("Oasis Capital") under an equity line to be entered into between the Company and Oasis Capital, and (vii) "FOR" the approval of discretionary authority to adjourn the Annual Meeting, if necessary, to solicit additional proxies in the event that there are not sufficient votes at the time of the Annual Meeting to approve Proposals 1-6.

We will bear all expenses of this solicitation, including the cost of preparing and mailing this Proxy Statement. We have retained Geogeson LLC to solicit proxies for a fee of \$20,000 plus reimbursement of reasonable out-of-pocket expenses. In addition to solicitation by use of the mail, proxies may be solicited by telephone, facsimile or personally by our directors, officers and employees, who will receive no extra compensation for their services. We will reimburse banks, brokerage firms and other custodians, nominees and fiduciaries for reasonable expenses incurred by them in sending proxy soliciting materials to beneficial owners of shares of Common Stock.

Broker Voting

Brokers holding shares of record in "street name" for a client have the discretionary authority to vote on some matters (routine matters) if they do not receive instructions from the client regarding how the client wants the shares voted at least 10 days before the date of the meeting; provided the proxy materials are transmitted to the client at least 15 days before the meeting. There are also some matters with respect to which brokers do not have discretionary authority to vote (non-routine matters) if they do not receive timely instructions from the client. When a broker does not have discretion to vote on a particular matter and the client has not given timely instructions on how the broker should vote, a broker non-vote results. Any broker non-vote will be counted as present at the Annual Meeting for purposes of determining a quorum, but will be treated as not entitled to vote with respect to non-routine matters.

The proposal to approve the amendment to the COI to effect the Reverse Stock Split (Proposal 2), and the proposal to approve discretionary authority for the Company to adjourn the Annual Meeting, if necessary, to solicit additional proxies in the event there are not sufficient votes at the time of the Annual Meeting to approve Proposals 1 through 6 (Proposal 7) are considered routine matters and brokers will be permitted to vote in their discretion on these matters on behalf of clients who have not furnished voting instructions at least 10 days before the date of the Annual Meeting. In contrast, the proposal to elect directors (Proposal 1), the proposal to approve an increase in the number of shares of Common Stock authorized for issuance under the 2014 Plan, contingent upon the Reverse Stock Split being approved and effected (Proposal 3), the proposal to approve, for purposes of Nasdaq Rule 5635(d), the issuance of shares of Common Stock upon the exchange of promissory notes and exercise of warrants issued in one or more private placement transactions that may equal or exceed 19.99% of Common Stock outstanding before such offering (Proposal 4), the proposal to approve, for purposes of Nasdaq Rule 5635(d), the issuance of shares of Common Stock upon the exercise of a warrant issued in connection with the cancellation of a letter of credit that may equal or exceed 19.99% of Common Stock outstanding before such transaction (Proposal 5), and the proposal to approve, for purposes of Nasdaq Rule 5635(d), the issuance of up to 40,000,000 shares of Common Stock to Oasis Capital under an equity line (Proposal 6) are not considered "routine" items and brokers do not have discretionary authority to vote on behalf of clients on such matters.

Required Vote

Proposal 1 Election of Class I Directors

With respect to the proposal to elect directors (Proposal 1), you may vote in favor of all nominees, withhold your vote as to all nominees or vote in favor of or withhold your vote as to specific nominees. The vote required to approve Proposal 1 is governed by Delaware law, our COI and our Bylaws and is a plurality of the votes cast by the holders of shares represented and entitled to vote at the Annual Meeting, provided a quorum is present. As a result, in accordance with Delaware law, votes that are withheld will be counted in determining whether a quorum is present but will have no other effect on the election of directors. Stockholders have no right to cumulative voting as to any matter, including the election of directors.

The Preferred Stock shall not be entitled to vote with respect to Proposal 1.

Proposal 2 Adoption of the Amendment to the COI to effect the Reverse Stock Split

With respect to the proposal to approve the Amendment to the COI to effect the Reverse Stock Split, you may vote in favor of the proposal, vote against the proposal or abstain from voting.

The vote required to approve Proposal 2 is governed by Delaware law, our COI and our Bylaws and is the affirmative vote of the holders of a majority of the outstanding shares of Common Stock and

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Preferred Stock (on an as converted to Common Stock basis subject to the Nasdaq Voting Limitations) as of the record date, present in person or represented by proxy at the Annual Meeting and entitled to vote, voting together as a single class. As a result, abstentions will have the same practical effect as a vote against Proposal 2.

Proposal 3 Increase the Number of Authorized Shares under the 2014 Plan

With respect to the proposal to approve an amendment to the 2014 Plan to increase the number of shares of Common Stock authorized for issuance under the 2014 Plan such that the aggregate authorized but unissued shares under the 2014 Plan shall equal 12.5% of the issued and outstanding shares of Common Stock on a fully diluted basis calculated as of the earlier of (A) the day immediately after the consummation of the Company's next underwritten public equity offering with gross proceeds of \$5 million or more or (B) July 31, 2019, contingent upon the Reverse Stock Split being approved and effected in accordance with Proposal 2 on, or prior to, the Calculation Date, you may vote in favor of the proposal, vote against the proposal or abstain from voting.

The vote required to approve Proposal 3 is governed by Delaware law, Nasdaq Listing Rules, our COI and our Bylaws and is the affirmative vote of the holders of a majority of votes cast affirmatively or negatively in person or by proxy at the Annual Meeting and entitled to vote. As a result, abstentions will be considered in determining whether a quorum is present but will have no effect on the vote for Proposal 3.

Proposal 4 Issuance of Shares of Common Stock Upon Exchange of Promissory Notes and Exercise of Warrants for Purposes of Nasdaq Listing Rule 5635(d)

With respect to the proposal to approve, for purposes of Nasdaq Rule 5635(d), the issuance of shares of Common Stock upon the exchange of promissory notes and exercise of warrants in one or more private placement transactions that may equal or exceed 19.99% of Common Stock outstanding before such offering, you may vote in favor of the proposal, vote against the proposal or abstain from voting.

The vote required to approve Proposal 4 is governed by Delaware law, the Nasdaq Listing Rules, our COI and our Bylaws and is the affirmative vote of the holders of a majority of the votes cast affirmatively or negatively in person or by proxy at the Annual Meeting and entitled to vote, provided a quorum is present. As a result, abstentions will be considered in determining whether a quorum is present but will have no effect on the vote for Proposal 4.

Proposal 5 Issuance of Shares of Common Stock Upon Exercise of a Warrant for Purposes of Nasdaq Listing Rule 5635(d)

With respect to the proposal to approve, for purposes of Nasdaq Rule 5635(d), the issuance of shares of Common Stock upon the exercise of a warrant issued in connection with the cancellation of a letter of credit that may equal or exceed 19.99% of Common Stock outstanding before such transaction, you may vote in favor of the proposal, vote against the proposal or abstain from voting.

The vote required to approve Proposal 5 is governed by Delaware law, the Nasdaq Listing Rules, our COI and our Bylaws and is the affirmative vote of the holders of a majority of the votes cast affirmatively or negatively in person or by proxy at the Annual Meeting and entitled to vote, provided a quorum is present. As a result, abstentions will be considered in determining whether a quorum is present but will have no effect on the vote for Proposal 5.

Proposal 6 Issuance of Shares of Common Stock to Oasis Capital for Purposes of Nasdaq Listing Rule 5635(d)

With respect to the proposal to approve, for purposes of Nasdaq Rule 5635(d), the issuance of up to 40,000,000 shares of Common Stock that may be issued at the Company's discretion from time to time to Oasis Capital under an equity line to be entered into between the Company and Oasis Capital, you may vote in favor of the proposal, vote against the proposal or abstain from voting.

The vote required to approve Proposal 6 is governed by Delaware law, the Nasdaq Listing Rules, our COI and our Bylaws and is the affirmative vote of the holders of a majority of the votes cast affirmatively or negatively in person or by proxy at the Annual Meeting and entitled to vote, provided a quorum is present. As a result, abstentions will be considered in determining whether a quorum is present but will have no effect on the vote for Proposal 6.

Proposal 7 Adjournment

With respect to the proposal to grant discretionary authority to adjourn the Annual Meeting, if necessary, to solicit additional proxies in the event that there are not sufficient votes at the time of the Annual Meeting to approve Proposals 1 through 6, you may vote in favor of the proposal, vote against the proposal or abstain from voting. The vote required to approve Proposal 7 is governed by Delaware law, our COI and our Amended and Restated Bylaws and is the affirmative vote of the holders of a majority of votes cast affirmatively or negatively (excluding abstentions and broker non-votes), provided a quorum is present. As a result, abstentions will be considered in determining whether a quorum is present but will have no effect on the vote for Proposal 7.

NO DISSENTERS' RIGHTS

The corporate action described in this Proxy Statement will not afford to stockholders the opportunity to dissent from the actions described herein and receive an agreed or judicially appraised value for their shares of Common Stock.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

The statements in this Proxy Statement that are not historical statements, including statements regarding future capital-raising activities and expected use of proceeds therefrom, our estimates regarding expenses, future revenues, capital requirements, needs for additional financing, our ability to obtain additional financing, our success with regard to any business development initiatives, our ability to recruit or retain key scientific or management personnel or to retain our executive officers, our stock price and ability to meet the continued listing requirements of The NASDAQ Capital Market, and any other statements regarding our future expectations, beliefs, plans, objectives, financial conditions, assumptions or future events or performance that are not historical facts, are forward-looking statements within the meaning of the federal securities laws. These statements are subject to numerous risks and uncertainties, many of which are beyond our control, which could cause actual results to differ materially from the results expressed or implied by the statements. We describe risks and uncertainties that could cause actual results and events to differ materially in the "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" section of our annual report on Form 10-K for the year ended December 31, 2018 (the "Annual Report").

Any forward-looking statements should be considered in light of such important factors. We undertake no obligation to revise or update publicly any forward-looking statements for any reason. Readers are cautioned not to place undue reliance on any forward-looking statement, which speaks only as of the date on which such statement is made.

All subsequent written and oral forward-looking statements concerning the matters addressed in this Proxy Statement and attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this Proxy Statement.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information regarding the beneficial ownership of shares of our Common Stock as of March 27, 2019 for:

each person known to us to be the beneficial owner of more than 5% of our outstanding shares of Common Stock;

each of our named executive officers;

each of our directors; and

all directors and named executive officers as a group.

Information with respect to beneficial ownership has been furnished by each director, executive officer or beneficial owner of more than 5% of our Common Stock. Beneficial ownership is determined in accordance with the rules of the SEC and generally includes voting and investment power with respect to the securities. Except as otherwise provided by footnote, and subject to applicable community property laws, the persons named in the table have sole voting and investment power with respect to all shares of Common Stock shown as beneficially owned by them. The number of shares of Common Stock used to calculate the percentage ownership of each listed person includes the shares of Common Stock underlying options or warrants or convertible securities held by such persons that are currently exercisable or convertible or exercisable or convertible within 60 days of March 27, 2019, but are not treated as outstanding for the purpose of computing the percentage ownership of any other person.

Percentage of beneficial ownership is based on 59,415,042 shares of Common Stock and 5,524,926 shares of Preferred Stock outstanding as of March 27, 2019. Each share of Preferred Stock is convertible into approximately six (6) shares of Common Stock.

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Except as otherwise set forth below, the address of each beneficial owner listed in the table below is c/o Jaguar Health, Inc., 201 Mission Street, Suite 2375, San Francisco, California 94105.

Name and address of beneficial owner	Voting Common Stock		Series A Convertible Participating Preferred Stock	
	Number of Shares Beneficially Owned	Percentage of Shares Beneficially Owned	Number of Shares Beneficially Owned	Percentage of Shares Beneficially Owned
5% Stockholders:				
Sagard Capital Partners, L.P.(1)	33,149,556	26.37%	5,524,926	100%
Kingdon Capital Management, L.L.C.(2)	2,732,623	4.40%		
Chicago Venture Partners L.P.(3)	2,606,934	4.20%		
Oasis Capital, LLC(4)	2,356,199	5.52%		
Named executive officers and directors:				
Lisa A. Conte(5)	371,846	*		
Steven R. King, Ph.D(6)	130,561	*		
Karen S. Wright(7)	84,603	*		
James J. Bochnowski(8)	215,334	*		
Jeffery C. Johnson(9)	40,196	*		
John Micek III(10)	82,281	*		
Jiahao Qui(11)	7,970	*		
Jonathan B. Siegel(12)	80,196	*		
Greg Divis(13)	31,458	*		
Murray David MacNaughtan(14)	31,458	*		
All current executive officers and directors as a group (10 persons)(15)	1,075,903	1.81%		

*

Less than 1%.

- (1) Represents 33,149,556 shares of Common Stock issuable upon conversion of shares of Preferred Stock that are convertible at any time, which shares would be entitled to 3,169,338 votes as further discussed elsewhere in this Proxy Statement. The address for Sagard Capital Partners, L.P. is 280 Park Avenue, 3rd Floor West, New York, NY 10017.
- (2) As reported on Form 13G/A filed on February 8, 2019. The address for the reporting person is 152 West 57th Street, 50th Floor, New York, NY 10019.
- (3) As reported on Form 13G/A filed on March 19, 2019. The address for the reporting person is 303 East Wacker Drive, Suite 1040, Chicago, IL 60601.
- (4) As reported on Form 13G filed on March 29, 2019. The address for the reporting person is 208 Ponce de Leon Ave., Ste. 1600, San Juan, Puerto Rico, 00918.
- (5) Represents (i) 2,253 shares of Common Stock and (ii) 369,593 shares of Common Stock issuable to Ms. Conte under stock options that are exercisable or will become exercisable within 60 days of March 27, 2019. The weighted average exercise price of the 369,593 stock options is \$6.82.
- (6) Represents (i) 442 shares of Common Stock and (ii) 130,119 shares of Common Stock issuable to Dr. King under stock options that are exercisable or will become exercisable within 60 days of March 27, 2019. The weighted average exercise price of the 130,119 stock options is \$6.72.

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- (7) Represents 84,603 shares of Common Stock issuable to Ms. Wright under stock options that are exercisable or will become exercisable within 60 days of March 27, 2019. The weighted average exercise price of the 84,603 stock options is \$5.94.
- (8) Includes (i) 72,503 shares of Common Stock and (ii) 142,831 shares of Common Stock issuable to Mr. Bochnowski under stock options that are exercisable or will become exercisable within 60 days of March 27, 2019. All securities other than stock options are held by the Bochnowski Family Trust. Mr. Bochnowski is a co-trustee and beneficiary of such trust and shares voting and investment control over such shares with his spouse. The weighted average exercise price of the 142,831 stock options is \$4.94.
- (9) Represents 40,196 shares of Common Stock issuable to Mr. Johnson under stock options that are exercisable or will become exercisable within 60 days of March 27, 2019. Mr. Johnson is one of Sagard's two director designees in accordance with the terms of the Company's Certificate of Designation of Series A Convertible Participating Preferred Stock and is part of the Sagard executive management team. The weighted average exercise price of the 40,196 stock options is \$2.38.
- (10) Represents 82,281 shares of Common Stock issuable to Mr. Micek under stock options that are exercisable or will become exercisable within 60 days of March 27, 2019. The weighted average exercise price of the 82,281 stock options is \$4.34.
- (11) Represents 7,970 shares of Common Stock issuable to Mr. Qui under stock options that are exercisable or will become exercisable within 60 days of March 27, 2019. The weighted average exercise price of the 7,970 stock options is \$8.55.
- (12) Represents (i) 40,000 shares of Common Stock and (ii) 40,196 shares of Common Stock issuable to Mr. Siegel under stock options that are exercisable or will become exercisable within 60 days of March 27, 2019. The weighted average exercise price of the 40,196 stock options is \$2.38.
- (13) Represents 31,458 shares of Common Stock issuable to Mr. Divis under stock options that are exercisable or will become exercisable within 60 days of March 27, 2019. The weighted average exercise price of the 31,458 stock options is \$1.36.
- (14) Represents 31,458 shares of Common Stock issuable to Mr. MacNaughtan under stock options that are exercisable or will become exercisable within 60 days of March 27, 2019. Mr. MacNaughtan is one of Sagard's two director designees in accordance with the terms of the Company's Certificate of Designation of Series A Convertible Participating Preferred Stock. The weighted average exercise price of the 31,458 stock options is \$1.36.
- (15) See footnotes (5) - (14).

PROPOSAL 1 ELECTION OF DIRECTORS

Nominees

Our Board of Directors currently consists of eight (8) members, James J. Bochnowski, Lisa A. Conte, Jeffery C. Johnson, Greg J. Divis, John Micek III, Jiahao Qui, Jonathan B. Siegel, and Murray David MacNaughtan, who are divided into three classes with staggered three-year terms. The Board has nominated James J. Bochnowski, Lisa A. Conte and Jonathan B. Siegel for re-election as Class I directors. If elected as a Class I director at the Annual Meeting, each of the nominees will serve and hold office for a three-year term expiring in 2022.

Each of the nominees has consented to continue his/her service as a director if elected. If any of the nominees should be unavailable to serve for any reason (which is not anticipated), the Board of Directors may designate a substitute nominee or nominees (in which event the persons named on the enclosed proxy card will vote the shares represented by all valid proxy cards for the election of such substitute nominee or nominees), allow the vacancies to remain open until a suitable candidate or candidates are located, or by resolution provide for a lesser number of directors or fill the position. All of the nominees for director are, at present, directors of Jaguar and have been nominated by our Nominating and Corporate Governance Committee and ratified by our full Board.

Vote Required

The vote required to approve Proposal 1 is the plurality of the votes cast by the holders of shares of Common Stock represented and entitled to vote at the Annual Meeting, provided a quorum is present and provided further that holders of Preferred Stock are not entitled to vote for Class I directors pursuant to Proposal 1. As a result, in accordance with Delaware law, votes that are withheld will be counted in determining whether a quorum is present but will have no other effect on the election of directors. Stockholders have no right to cumulative voting as to any matter, including the election of directors.

The Board of Directors unanimously recommends that the stockholders vote "FOR" Proposal No. 1 to elect James J. Bochnowski, Lisa A. Conte and Jonathan B. Siegel as Class I directors.

Information Regarding the Board of Directors and Director Nominees

The following table lists our directors and proposed director nominees, their respective ages and positions as of March 27, 2019:

Name	Age	Position
James J. Bochnowski(1)(2)(3)	75	Chairman of the Board (Class I)
Lisa A. Conte	60	Chief Executive Officer, President and Director (Class I)
Jeffery C. Johnson(2)(3)	47	Director (Class III)
Greg J. Divis	52	Director (Class III)
John Micek III(1)(3)	66	Director (Class II)
Jiahao Qui	33	Director (Class II)
Jonathan B. Siegel(1)(2)	45	Director (Class I)
Murray David MacNaughtan	52	Director (Class III)

(1) Member of the audit committee.

(2) Member of the compensation committee.

(3) Member of the nominating committee.

James J. Bochnowski. Mr. Bochnowski has served as a member of our board of directors since February 2014 and as Chairperson of our board since June 2014. Since 1988, Mr. Bochnowski has served as the founder and Managing Member of Delphi Ventures, a venture capital firm. In 1980, Mr. Bochnowski co-founded Technology Venture Investors. Mr. Bochnowski holds an M.B.A. from Harvard University Graduate School of Business and a B.S. in Aeronautics and Astronautics from Massachusetts Institute of Technology.

We believe Mr. Bochnowski is qualified to serve on our board of directors due to his significant experience with venture capital backed healthcare companies and experience as both an executive officer and member of the board of directors of numerous companies.

Lisa A. Conte. Ms. Conte has served as our President, Chief Executive Officer and a member of our board of directors since she founded the company in June 2013. From 2001 to 2014, Ms. Conte served as the Chief Executive Officer of our wholly-owned subsidiary, Napo Pharmaceuticals, Inc., a biopharmaceutical company she founded in November 2001. In 1989, Ms. Conte founded Shaman Pharmaceuticals, Inc., a natural product pharmaceutical company. Additionally, Ms. Conte is Napo Pharmaceuticals Inc.'s current Interim Chief Executive Officer and has served as a member of its board of directors since 2001. Ms. Conte is also currently a member of the board of directors of Healing Forest Conservatory, a California not-for-profit public benefit corporation and the Board of Visitors of the John Sloan Dickey Center for International Understanding, Dartmouth College. Ms. Conte holds an M.S. in Physiology and Pharmacology from the University of California, San Diego, and an M.B.A. and A.B. in Biochemistry from Dartmouth College.

We believe Ms. Conte is qualified to serve on our board of directors due to her extensive knowledge of our company and experience with our product and product candidates, as well as her experience managing and raising capital for public and private companies.

Jeffery C. Johnson. Mr. Johnson has served as a member of our board of directors since March 2018. Mr. Johnson is a partner at Sagard Holdings, ULC and an investment manager at Sagard Capital Partners Management Corp. He previously served as portfolio manager and senior analyst at Evercore Asset Management. He also serves on the board of directors of Peak Achievement Athletics and previously served on the board of directors of Vein Clinics of America. Mr. Johnson received his M.B.A. in Finance and Accounting from the Kellogg School of Management in 1999. Mr. Johnson was elected to our board of directors pursuant to the terms of the Series A Preferred Stock Purchase Agreement, dated as of March 23, 2018, by and between the Company and Sagard Capital Partners, L.P., and the Certificate of Designation, which gives the Preferred Stock holders the right to elect two Class III directors so long as they are entitled to vote in the aggregate 5% or more of all of the votes entitled to be cast by holders of all voting securities of the Company at any meeting of stockholders.

We believe Jeffery C. Johnson is qualified to serve on our board of directors due to his experience evaluating, investing in and managing companies in the health care sector for Sagard Holdings, ULC, and for other investment firms he was previously employed by.

Greg J. Divis. Mr. Micek has served as a member of our board of directors since June 14, 2018. Mr. Divis currently serves as the Chief Operating Officer of Avadel Pharmaceuticals plc ("Avadel"), an emerging branded specialty pharmaceutical company he joined in 2017. Prior to Avadel he served as an Executive-in-Residence and Operating Partner for Linden Capital Partners, a healthcare-focused middle market private equity firm. Previous roles also include President and Chief Executive Officer of Lumara Health, Inc., a specialty-branded pharmaceutical company focused on women's health, where Mr. Divis

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led the successful turnaround and transformation of the business resulting in a series of transactions culminating in the successful sale to AMAG Pharmaceuticals, Inc. Mr. Divis has also held such notable roles as Vice President, Business Development & Lifecycle Management at Sanofi-Aventis, and Vice-President and General Manager, UK and Ireland, for Schering-Plough Corporation. He currently serves on the board of directors of Mobius Therapeutics and previously served on the board of directors of Tolero Pharmaceuticals. Mr. Divis is a graduate of the University of Iowa.

We believe Greg J. Divis is qualified to serve on our board of directors due to his extensive experience in the pharmaceutical industry and experience as both an executive officer and member of the board of directors of other companies.

John Micek III. Mr. Micek has served as a member of our board of directors since April 2016. From 2000 to 2010, Mr. Micek was managing director of Silicon Prairie Partners, LP, a Palo Alto, California based family-owned venture fund. Since 2010, Mr. Micek has been managing partner of Verdant Ventures, a merchant bank dedicated to sourcing and funding university and corporate laboratory spinouts in areas including pharmaceuticals and cleantech. Mr. Micek serves on the board of directors of Armanino Foods of Distinction, Innovare Corporation and JAL/Universal Assurors. He is also a board member and the Chief Executive Officer and Chief Financial Officer of Enovo Systems and from March 2014 to August 2015 he served as interim Chief Financial Officer for Smith Electric Vehicles, Inc. Mr. Micek is a cum laude graduate of Santa Clara University and the University of San Francisco School of Law, and is a practicing California attorney specializing in financial services.

We believe Mr. Micek is qualified to serve on our board of directors due to his many years of executive experience in management and on boards of director.

Jiahao Qui. Mr. Qui has served as a member of our board of directors since February 2014. Mr. Qui has been employed at BioVeda Management, Ltd., a life science investment firm, as associate (2010-2012), senior associate (2012-2014) and Principal since April 2014. From 2009 to 2010, he served as an interpreter for the Delegation of the European Union to China. Mr. Qui holds a B.S. in Biotechnology from the Jiao Tong University in Shanghai, China.

We believe Mr. Qui is qualified to serve on our board of directors due to his experience with evaluating, managing and investing in life science portfolio companies for BioVeda Management, Ltd.

Jonathan B. Siegel. Mr. Siegel has served as a member of our board of director since March 2018. Mr. Siegel is founder of JBS Healthcare Ventures, which pursues investments in public and private healthcare entities. In 2017 he left Kingdon Capital ("Kingdon"), where he was principal of the firm, a member of the executive committee and the sector head for healthcare. He joined Kingdon in 2011 and has more than 18 years of investment experience. Prior to joining Kingdon, Mr. Siegel was with SAC Capital Advisors from 2005 to 2011, serving as a portfolio manager for healthcare starting in 2007. Before joining SAC, he was an associate director of pharmaceutical and specialty pharmaceutical research with Bear, Stearns & Co., a research associate with Dresdner Kleinwort Wasserstein, specializing in pharmaceuticals, a consultant to the Life Sciences Division of Computer Sciences Corporation; a research associate at the Novartis Center for Immunobiology, Harvard Medical School, Beth Israel Deaconess Medical Center, and a research assistant at Tufts University School of Medicine. Additionally, he previously served on the board of KV Pharmaceutical Company. Mr. Siegel received a BS in Psychology from Tufts University in 1995 and an MBA from Columbia Business School in 1999.

We believe Mr. Siegel is qualified to serve on our board of directors due to his extensive experience in the pharmaceutical investment sector.

Murray David MacNaughtan. Mr. MacNaughtan has served as a member of our board of director since June 18, 2018. Mr. MacNaughtan has served as senior principal of CPPIB Credit Investments Inc., a wholly-owned subsidiary of the Canada Pension Plan Investment Board, since 2010,

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where he leads the intellectual property investment strategy with a focus on the acquisition and securitization of pharmaceutical royalty streams. Prior to this, he was co-head of the royalty monetization fund at DRI Capital (formerly Drug Royalty Corp.). From 1999 to 2002, he was Vice President of Business Development at Paladin Labs Inc. ("Paladin"), a specialty pharmaceutical company, where he led a team responsible for acquiring and licensing products for the Canadian market. He joined Paladin from Royal Bank Capital Corp., the venture capital subsidiary of RBC, where he was an investment manager. Mr. MacNaughtan began his career in the biopharmaceutical industry at Hemosol Inc. as a process development engineer. David earned a B.Sc. and M.Sc. in Applied Science from Queen's University in Ontario, and an MBA from the University of Toronto.

We believe Mr. MacNaughtan is qualified to serve on our board of directors due to his extensive experience in specialty finance and the pharmaceutical.

There are no family relationships among any of our executive officers or among any of our executive officers and our directors. There is no arrangement or understanding between any director and any other person pursuant to which the director was selected except to the extent provided in our Certificate of Designation.

See "Corporate Governance" and "Compensation of Directors and Executive Officers" below for additional information regarding the Board of Directors.

PROPOSAL 2 APPROVAL OF THE ADOPTION OF THE AMENDMENT TO THE COI TO EFFECT THE REVERSE STOCK SPLIT

At the Annual Meeting, stockholders will be asked to approve an amendment to our COI to effect a reverse stock split of our issued and outstanding Common Stock by a numerical ratio of not less than 1-for-30 and not more than 1-for-70, with the exact ratio, if approved and effected at all, to be set within that range at the discretion of the board of directors and publicly announced by the Company on or before November 3, 2019. The proposed amendment to the COI reflecting the Reverse Stock Split is included in *Annex A* to this Proxy Statement. By approving this proposal, stockholders would give the board of directors the authority, but not the obligation, to effect the Reverse Stock Split and full discretion to approve the ratio at which shares of Common Stock will be reclassified, from and including a ratio of 1-for-30 and up to and including a ratio of 1-for-70. The ratio (if any) selected by the board of directors for the Reverse Stock Split would be publicly disclosed by the Company to the stockholders on or before the date on which the amendment to the COI reflecting the Reverse Stock Split is filed with the Secretary of State of the State of Delaware.

We are requesting stockholder approval to effect the Reverse Stock Split at a ratio of not less than 1-for-30 and not more than 1-for-70, with the exact ratio determined by the board of directors and publicly announced by the Company on or before November 3, 2019, to provide the board of directors with the flexibility to determine the appropriate ratio and timing for the Reverse Stock Split based upon our performance and other market factors. However, the board of directors reserves the right to elect not to proceed with the Reverse Stock Split, even if approved, and to abandon the Reverse Stock Split if it determines, in its sole discretion, that the Reverse Stock Split is no longer in the best interests of our stockholders. No further action by the stockholders will be required for the board of directors to either implement or abandon the Reverse Stock Split. For the avoidance of doubt, except as otherwise specified herein, all share and dollar amounts set forth in this proxy statement are on a pre-Reverse Stock Split basis.

If the board of directors does not effect the Reverse Stock Split on or before November 3, 2019, any authority granted to the board of directors by our stockholders pursuant to this Proposal 2 will terminate.

Reasons for the Reverse Stock Split

The board of directors has authorized the resolution to seek stockholder approval to effect the Reverse Stock Split with the primary intent of increasing the price of our Common Stock in order to meet The Nasdaq Capital Market's minimum price per share criteria for continued listing on that exchange. Our Common Stock is publicly traded and listed on The Nasdaq Capital Market under the symbol "JAGX." The board of directors believes that, in addition to increasing the price of our Common Stock, the reverse stock split would also reduce certain of our costs, such as Nasdaq listing fees, and make our Common Stock more attractive to a broader range of institutional and other investors. The combination of lower transaction costs and increased interest from institutional investors and investment funds may ultimately improve the trading liquidity of our Common Stock. Accordingly, we believe that authority granted to the board of directors to effect the Reverse Stock Split is in the Company's and the stockholders' best interests.

On November 9, 2018, we received a letter from the Listing Qualifications Department of Nasdaq notifying us that we were not in compliance with Nasdaq Listing Rule 5550(a)(2), as the minimum bid price for the Company's listed securities was less than \$1 for the previous 30 consecutive business days. Our Common Stock is listed on The Nasdaq Capital Market, which imposes, among other requirements a minimum bid requirement. We were granted a 180 calendar day grace period, or until May 8, 2019, to regain compliance with the minimum bid price requirement.

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In addition to establishing a mechanism for the price of our Common Stock to meet Nasdaq's minimum bid price requirement, we also believe that the Reverse Stock Split will make our Common Stock more attractive to a broader range of institutional and other investors. It is our understanding that the current market price of our Common Stock may affect its acceptability to certain institutional investors, professional investors and other members of the investing public. It is also our understanding that many brokerage houses and institutional investors have internal policies and practices that either prohibit them from investing in low-priced stocks or tend to discourage individual brokers from recommending low-priced stocks to their customers. In addition, some of those policies and practices may function to make the processing of trades in low-priced stocks economically unattractive to brokers. Moreover, because brokers' commissions on low-priced stocks generally represent a higher percentage of the stock price than commissions on higher-priced stocks, the current average price per share of our Common Stock can result in individual stockholders paying transaction costs representing a higher percentage of their total share value than would be the case if the share price were substantially higher. However, some investors may view the Reverse Stock Split negatively because it reduces the number of shares of Common Stock available in the public market.

Reducing the number of outstanding shares of our Common Stock through the Reverse Stock Split is intended, absent other factors, to increase the per share market price of our Common Stock. However, other factors, such as our financial results, market conditions and the market perception of our business may adversely affect the market price of our Common Stock. As a result, there can be no assurance that the Reverse Stock Split, if completed, will result in the intended benefits described above, that the market price of our Common Stock will increase following the Reverse Stock Split, that the market price of our Common Stock will not decrease in the future, or that our Common Stock will achieve a high enough price per share to permit its continued listing by Nasdaq.

Certain Risks Associated with the Reverse Stock Split

In evaluating the proposed Reverse Stock Split, the board of directors also took into consideration certain risks associated with reverse stock splits generally, including the negative perception of reverse stock splits held by some investors, analysts and other stock market participants, the fact that the stock price of some companies that have effected reverse stock splits has subsequently declined back to pre-reverse stock split levels, and the risks described below.

There can be no assurance that the total market capitalization of our Common Stock (the aggregate value of our Common Stock at the then market price) after the implementation of the Reverse