FORM 10-K

OXYGEN BIOTHERAPEUTICS, INC. - OXBT

Filed: June 26, 2013 (period: April 30, 2013)

Annual report with a comprehensive overview of the company

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

FORM 10-K

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

For the Fiscal Year Ended April 30, 2013

Commission File No. 001-34600

OXYGEN BIOTHERAPEUTICS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**26-2593535**
(State or other jurisdiction of Incorporation or organization)	(I.R.S. Employer Identification No.)

ONE Copley Parkway, Suite 490, Morrisville, NC 27560
(Address of Principal Executive Offices) (Zip Code)

Registrant's Telephone Number and area code: (919) 855-2100

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

Title of Each Class	**Name of Each Exchange on Which Registered**
Common Stock, $0.0001 par value per share	The NASDAQ Stock Market LLC

Securities registered pursuant to Section 12(g) of the Act: NONE

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

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

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted 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 and post such files). Yes ☑ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to the this Form 10-K. ☐

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

Large accelerated filer ☐	Accelerated filer ☐	Non-accelerated filer ☐ (Do not check if a smaller reporting company)	Smaller reporting company ☑

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

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter: $29,468,107.

The number of shares outstanding of the registrant's class of $0.0001 par value common stock as of June 20, 2013 was 2,096,835.

DOCUMENTS INCORPORATED BY REFERENCE:

None.

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PART I

FORWARD-LOOKING STATEMENTS

All statements contained in this report, other than statements of historical fact, which address activities, actions, goals, prospects, or new developments, that we expect or anticipate will or may occur in the future, including plans for clinical tests and other such matters pertaining to testing and development products, are forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as “may”, “will”, “should”, “expects”, “plans”, “anticipates”, “believes”, “estimates”, “predicts”, “potential” or “continue” or the negative of such terms or other comparable terminology. These statements are only predictions and involve known and unknown risks, uncertainties and other factors, including, but not limited to, progress in our product development and testing activities, obtaining financing for operations, development of new technologies and other competitive pressures, legal and regulatory initiatives affecting our products, conditions in the capital markets, the risks discussed in Item 1A – “Risk Factors,” and the risks discussed elsewhere in this report that may cause our or our industry’s actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activities, performance or achievements expressed or implied by such forward-looking statements.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Moreover, neither we nor any other person assumes responsibility for the accuracy and completeness of such statements. We are under no duty to update any of the forward-looking statements after the date of filing of this report or to conform such statements to actual results, except as may be required by law.

All references in this Annual Report to “Oxygen Biotherapeutics”, “we”, “our” and “us” means Oxygen Biotherapeutics, Inc.

ITEM 1—BUSINESS

Oxygen Biotherapeutics was originally formed as a New Jersey corporation in 1967 under the name Rudmer, David & Associates, Inc., and subsequently changed its name to Synthetic Blood International, Inc. Effective June 30, 2008, we changed the domiciliary state of the corporation to Delaware and changed the company name to Oxygen Biotherapeutics, Inc.

Oxygen Biotherapeutics is engaged in the business of developing biotechnology products with a focus on oxygen delivery to specific target tissues. We are currently developing Oxycyte®, a systemic perfluorocarbon, or PFC, product we believe is a safe and effective oxygen carrier for use in situations of acute ischemia. In addition, we have developed a family of perfluorocarbon-based oxygen carriers for use in personal care, topical wound healing, and other topical indications. While Oxycyte has been successful in two clinical trials and is currently being evaluated in a Phase II-b clinical trial for the treatment of traumatic brain injury, or TBI, we also plan to focus on developing our most advanced topical products: Dermacyte® and Wundecyte™, as we believe these products have a significant opportunity for near-term commercialization.

The principal function of human blood is to transport oxygen throughout the body. The lack of an adequate supply of oxygen as a result of blood loss can lead to organ dysfunction or death. The transfusion of human blood is presently the only effective means of immediately restoring diminished oxygen-carrying capacity resulting from blood loss. According to the AABB 2009 Nationwide Blood Collection and Utilization Report, over 15 million units of whole blood and red blood cells were transfused in the United States in 2008. This includes transfusions for trauma, surgery, unexpected blood loss, chronic anemia, and other general medical applications.

The use of donated blood in transfusion therapy, while effective in restoring an adequate supply of oxygen in the body of the recipient, has several limitations. Although testing procedures exist to detect the presence of certain diseases in blood, these procedures cannot eliminate completely the risk of blood-borne disease. Transfused blood also can be used only in recipients having a blood type compatible with that of the donor. Delays in treatment, resulting from the necessity of blood typing prior to transfusion, together with the limited shelf life of blood and the limited availability of certain blood types, impose constraints on the immediate availability of compatible blood for transfusion. There is no commercially available blood substitute in this country that addresses these problems. The regulatory authorities in the U.S. are very skeptical regarding blood substitutes and Oxygen Biotherapeutics assessed chances of getting a blood substitute approved by the U.S. Food and Drug Administration, or FDA, as very limited. Therefore, Oxygen Biotherapeutics changed its direction away from synthetic blood to oxygen to tissue delivery.

Oxycyte was originally developed as an oxygen carrier that could be used in cases of trauma, surgery, and other general medical applications. For trauma and emergency surgical procedures, Oxycyte's immediate bioavailability, universal compatibility, and the reduced risk of blood borne diseases provided potentially significant advantages over transfused blood and other proposed oxygen delivery systems based on biological material. Unfortunately, the use of PFCs as blood substitutes has, in general, shown disappointing results and led to significant skepticism in the medical community. However, we believe that there exists a variety of other acute medical conditions for which an effective oxygen carrier such as Oxycyte may be an ideal drug.

We are working with an international network of investigators and research and clinical institutions to evaluate the use of Oxycyte as a potential treatment for a broad range of disease indications. Working collaboratively, and through our own internal efforts, we have explored the potential for Oxycyte to be used for TBI, spinal cord injury, decompression sickness, and other neurological conditions.

Through our research collaborators, Oxycyte is also being evaluated in on-going preclinical trials for subarachnoid hemorrhage and decompression sickness. A research center in Europe is also conducting initial preclinical studies to evaluate Oxycyte to enhance imaging techniques and as a potential therapy for ischemic stroke.

We also have under development Vitavent™ (formerly called Fluorovent™), an oxygen exchange fluid for facilitating the treatment of lung conditions, and we have rights to a biosensor implant product that uses an enzyme process for measuring the glucose level in subcutaneous fluid.

Business Strategy

Our principal business objective is to discover, develop, and commercialize novel therapeutic products for disease indications that represent significant areas of clinical need and commercial opportunity. The key elements of our business strategy are outlined below.

Efficiently conduct clinical development to establish clinical proof of concept with our lead product candidates. Oxycyte represents a novel therapeutic modality for the treatment of traumatic brain injury and other neurological conditions. We are conducting clinical development in a number of clinical studies with the intent to establish proof of concept in a number of important disease areas where the oxygen carriers would be expected to have benefit. Our focus is on conducting well-designed studies early in the clinical development process to establish a robust foundation for subsequent development, partnership and expansion into complementary areas.

Advance the development of the PFC therapeutic modality and supporting capabilities . A key aspect of PFCs is their ability to form a stable emulsion. This enables large scale production of the Oxycyte products, which drives product consistency, specificity and cost advantages over other blood-based therapies. We plan to build on this intrinsic advantage by improving our current production approaches, further developing new manufacturing approaches, and optimizing our supply chain to support late stage development and commercialization. Additionally, we will continue to refine our understanding of our products' activities and mechanisms of action to enable us to prepare the foundation for product enhancements and next generation opportunities.

Efficiently explore new high potential therapeutic applications, leveraging third-party research collaborations and our results from related areas . Our product candidates have shown promise in multiple disease areas. We are committed to exploring potential clinical indications where our therapies may achieve best-in-class profile, and where we can address significant unmet medical needs. In order to achieve this goal, over the past two years, we have established collaborative research relationships with investigators from research and clinical institutions and the United States Army and Navy. These collaborative relationships have enabled us to cost effectively explore where Oxycyte may have therapeutic relevance, and how it may be utilized to advance treatment over current clinical care. Additionally, we believe we will be able to leverage clinical safety data and preclinical results from some programs to support accelerated clinical development efforts in other areas, saving substantial development time and resources compared to traditional drug development.

Continue to expand our intellectual property portfolio . Our intellectual property is important to our business and we take significant steps to protect its value. We have ongoing research and development efforts, both through internal activities and through collaborative research activities with others, which aim to develop new intellectual property and enable us to file patent applications that cover new applications of our existing technologies or product candidates, including Oxycyte and other opportunities.

Enter into licensing or product co-development arrangements in certain areas, while out-licensing opportunities in non-core areas . In addition to our internal development efforts, an important part of our product development strategy is to work with collaborators and partners to accelerate product development, reduce our development costs, and broaden our commercialization capabilities. We believe that this strategy will help us to develop a portfolio of high quality product development opportunities, enhance our clinical development and commercialization capabilities, and increase our ability to generate value from our proprietary technologies.

Our Current Programs

Oxycyte

Our Oxycyte oxygen carrier product is a PFC-based oil in water emulsion, which is provided to the patient intravenously. The physical-chemical properties of PFCs enable our product to concentrate oxygen from the lungs and transport it through the body releasing it along the way. Over a period of days Oxycyte is gradually exhaled through the lungs during the normal process of respiration. Oxycyte requires no cross matching, so it is immediately available and compatible with all patients' blood types. Oxycyte has an extended shelf life compared to blood and is provided as a sterile emulsion ready for intravenous administration. Because it contains no biological components, there is reduced risk of transmission of blood-borne viruses from human blood products. Further, since Oxycyte is based on readily available inert compounds, we believe it can be manufactured on a cost-effective basis in amounts sufficient to meet demand.

We received approval of our Investigational New Drug application, or IND, for severe TBI filed with FDA and began Phase I clinical studies in October 2003, which were completed in December 2003. We submitted a report on the results to the FDA along with a Phase II protocol in 2004. Phase II-A clinical studies began in the fourth quarter 2004, and were completed in 2006. A further Phase II study protocol was filed with the FDA in the spring of 2008, but remained on clinical hold by the FDA due to safety concerns raised by the regulatory agency. In March 2011, we received confirmation of a $2.07 million, two-year cost reimbursement award from the U.S. Army to conduct safety related studies for Oxycyte. PFC emulsions, as a therapeutic class, are known to interact with the reticuloendothelial system as part of the clearance mechanism, as well as affect the number of circulating platelets. The studies supported by this grant will examine the effects of Oxycyte on the immune system, platelet function and distribution, as well as the safety and efficacy of platelet transfusion, which can be necessary for patients with TBI and related polytrauma. Additional studies under this grant will be conducted to evaluate the pharmacokinetics of PFCs in relevant species. We believe the results of these studies will support the safety profile of Oxycyte PFC emulsion and adequately address the FDA's safety concerns. The aforementioned comprehensive preclinical program is under way, and we have sought FDA input and guidance with the aim of ensuring that the data collected will answer the questions regulators raise. We expect to commit a substantial portion of our financial and business resources over the next three years to testing Oxycyte and advancing this product to regulatory approval for use in one or more medical applications.

Despite the FDA's postponement of Oxycyte trials in the United States, we are authorized to continue our TBI clinical studies abroad. After receiving the FDA clinical hold, we filed a revised protocol as a dose-escalation study with the regulatory authorities in Switzerland and Israel. The relevant Swiss regulatory body approved the protocol in August 2009, and the Israel Ministry of Health approved the protocol in September 2009. The new study began in October 2009. In March 2010, we determined that it is feasible to simplify the trial design and also reduce the number of patients to be enrolled. In May 2010, we entered into a relationship with a contract research organization, or CRO, to assist us with plans to expand our study, possibly into India, and to initiate five to 10 new sites for our Phase IIb clinical trial. At that time, we believed study objectives as well as safety and efficacy endpoints would remain unchanged, and we believed the study could be concluded faster and more economically with these optimizations. The first of three cohorts has been completed and we were authorized by the Swiss and Israeli regulatory authorities to initiate the second cohort. Despite their authorization, we stopped enrollment in order to reevaluate the protocol's patient enrollment parameters, secure our Current Good Manufacturing Practice, or cGMP, supply of Oxycyte, review our contractor and clinical sites, and examine the possibility of opening clinical sites in other countries. At this time, we have secured our cGMP supply of Oxycyte. We are in the process of reviewing our CRO agreement and existing clinical sites. Our objective is to resume enrollment in the second cohort during the first quarter of fiscal year 2014. Upon completion of the Phase II trials, a Phase III trial will need to be implemented. In that instance, we would seek a partner to either conduct the Phase III trials, or collaborate with us to conduct the trials.

Should Oxycyte successfully progress in clinical testing and if it appears regulatory approval for one or more medical uses is likely, either in the United States or in another country, we intend to evaluate our options for commercializing the product. These options include licensing Oxycyte to a third party for manufacture and distribution, manufacturing Oxycyte ourselves for distribution through third party distributors, manufacturing and selling the product ourselves, or establishing some other form of strategic relationship for making and distributing Oxycyte with a participant in the pharmaceutical industry. We are currently investigating and evaluating all options.

We believe that important competitive factors in the market for oxygen carrier products will include the relative speed with which competitors can develop their respective products, complete the clinical testing and regulatory approval process, and supply commercial quantities of their products to the market. In addition to these factors, competition is expected to be based on the effectiveness of oxygen carrier products and the scope of the intended uses for which they are approved, the scope and enforceability of patent or other proprietary rights, product price, product supply, and marketing and sales capability. We believe that our competitive position will be significantly influenced by the timing of the clinical testing and regulatory filings for Oxycyte, our ability to maintain and enforce our proprietary rights covering Oxycyte and its manufacturing process, and our ability to develop capabilities for manufacturing and distributing the product ourselves or with others, should we obtain regulatory approval.

Dermacyte

The Dermacyte line of topical cosmetic products contains our patented PFC technology and other known cosmetic ingredients to promote the appearance of skin health and other desirable cosmetic benefits. Dermacyte is designed to provide a moist and oxygen-rich environment for the skin when it is applied topically, even in small amounts. Dermacyte Concentrate has been formulated as a cosmetic in our lab and Dermacyte Eye Complex was created by a contract formulator, with the patent held by Oxygen Biotherapeutics. Both formulas have passed required safety and toxicity tests in the United States, and we have filed a Cosmetic Product Ingredient Statement, or CPIS with the FDA. The market for oxygen-carrying cosmetics includes anti-aging, anti-wrinkle, skin abrasions and minor skin defects.

In September 2009, we started production of our first commercial product under our topical cosmetic line, Dermacyte Concentrate. We produced and sold a limited pre-production batch in November 2009 as a market acceptance test. The product was sold in packs of 8 doses of 0.4ml. Based on the test market results we identified specific market opportunities for this product and reformulated Dermacyte Concentrate for better product stability. Marketing and shipments of the new Dermacyte Concentrate formulation began in April 2010. We worked with a contract formulator in California to develop the Dermacyte Eye Complex which contains PFC technology as well as other ingredients beneficial to the healthy appearance of the skin around the eyes.

Since June 2010 we had marketed and sold these products through www.DermacyteUS.com (previously www.buydermacyte.com) and to dermatologists, plastic surgeons and medical spas with a combination of in-house sales, independent sales agents and exclusive distributors. We had hired a sales director based in North Carolina, and had added sales people in South Florida and California. From October 2011 through February 2012, we evaluated that sales strategy. The outcome was that we adjusted our growth strategy to focus exclusively on the North Carolina and South Florida markets while we focused on developing new, improved packaging for the existing commercial products, as well as reformulating the products, and expanding the line to include more skin care products.

On February 5, 2013, we entered into a License and Supply Agreement, or the Dermacyte Agreement, with the Cosmetics Division of Valor SA, or Valor, with respect to Dermacyte. The Dermacyte Agreement grants Valor the exclusive right to sell, import, export, distribute, package, label and otherwise commercialize Dermacyte worldwide for a five year term. Valor is also authorized to sublicense the license granted under the Dermacyte Agreement provided that such sublicenses are consistent with the terms of the Dermacyte Agreement. The Dermacyte Agreement will become effective upon our receipt from Valor of 75% of the estimated costs to complete certain product formulation and safety studies requested by Valor. As of April 30, 2013, Valor has not requested an additional development or safety studies.

Under the Dermacyte Agreement, Valor will purchase bulk Dermacyte from us for 125% of our actual manufacturing cost, and must pay us an annual, non-refundable license fee of $140,000, payable on a quarterly basis, with the first year's payment creditable against Dermacyte purchased by Valor in the first 12 months following the effective date of the Dermacyte Agreement. Valor must also pay us royalties of 5% of net sales of Dermacyte once Valor's aggregate net sales of Dermacyte equals or exceeds $10,000,000.

The cosmetic industry is highly competitive, with a number of established large companies, as well as many smaller companies. Many of these companies have greater financial resources and marketing capabilities for product candidates.

Dermatology

We intend to develop additional clinical research protocols and conduct proof-of-concept studies for topical indications, such as the treatment of acne, rosacea, pruritis, psoriasis, and dermatitis. In January 2012 we initiated our first proof-of-concept study in India to assess the potential of our topical gel to reduce the itch (pruritis) associated with histamine-mediated allergic skin reactions. In May 2012, we revealed results of this study which showed that our topical gel elicited a larger reduction in Visual Analogue Scale scores following a standard histamine skin prick compared to placebo. The sample size of this study prevented a demonstration of statistical significance so further research is necessary to evaluate its effectiveness. We believe that we will need the support of partners in this sector to commercialize these dermatologic product candidates. We can provide no assurance that the topical indications we have under development will prove their claims and be successful commercial products.

Wundecyte

Wundecyte is a novel gel developed under a contract agreement with a lab in Virginia that is designed to be used as a wound-healing gel. In July 2009, we filed a 510K medical device application for Wundecyte with the FDA. Several oxygen-producing and oxygen-carrying devices were cited as predicate devices. The FDA response was that the application likely would be classified as a combination device. The drug component of the combination device will require extensive preclinical and clinical studies to be conducted prior to potential commercialization of the product.

We have also developed a prototype for an oxygen-generating bandage that can be combined with Wundecyte gel. Wundecyte gel and the oxygen-generating bandage both entered preclinical testing in our first quarter of fiscal 2011. The studies were designed to measure factors such as time to wound closure and reduction in scar tissue formation as compared to a control group. Results showed an apparent increase in epithelial thickness versus the control. The treatment did not cause adverse effects and the models tolerated the treatment well. Our current product development plan is for Wundecyte to emerge into more complex wound-healing indications, also in combination with oxygen-producing technologies based on hydrogen peroxide. In December 2010 we signed a binding letter of intent with Sarasota Medical Products, Inc., or SMP, of Sarasota, Florida to determine the feasibility of pursuing a joint research and development venture for treating chronic ischemic wounds. The venture was to be based on combining Wundecyte with SMP's topical medical devices. No significant development activities have resulted from this agreement as of April 30, 2013.

Additionally, we are developing preclinical research protocols for the treatment of burns and other topical indications based on our PFC technology. However, we can provide no assurance that the topical indications we have under development will prove their claims and be successful commercial products.

Suppliers

We are actively pursuing agreements with multiple manufacturers to ensure we are able to consistently obtain our raw materials and topical products timely, within our defined specifications, and at competitive prices.

Our FtBu PFC currently is manufactured by Fluoromed. We have obtained exclusive manufacturing rights for our PFC, and we strengthened these rights with documentation of the manufacturer's critical formulations and processes. This documentation is being held in escrow and will revert to us in the event the manufacturer undergoes a change-of-control or fails to remain a going concern.

In May 2009 we entered into a supply agreement with Hospira, Inc. to manufacture our Oxycyte emulsion in commercial-sized batches for clinical use under cGMP standards. We learned that the FDA issued a warning letter to Hospira on April 12, 2010. In the letter, the FDA told Hospira that it had identified significant violations of cGMP regulations at Hospira's manufacturing facilities in North Carolina where Oxycyte was being produced. Among other things, the warning letter indicated to Hospira that these violations cause the drug products that it manufactures in these facilities to be adulterated. These issues were successfully remediated and their manufacturing facilities resumed operations. Subsequently, we expanded the search for manufacturers and identified potential alternative domestic sources to manufacture Oxycyte under cGMP standards for our clinical trials. On August 30, 2011, we and Hospira entered into a Termination Agreement pursuant to which we mutually agreed to terminate the supply agreement related to the development, manufacture, supply and distribution of Oxycyte. No early termination penalties or other payments were incurred by either party in connection with the termination.

In September 2011 we entered into a development and supply agreement with NextPharma, Inc. to manufacture our Oxycyte emulsion for clinical use under cGMP standards. In January 2012, NextPharma transferred the manufacturing process from Hospira, our previous supplier, to their cGMP facilities and demonstrated their ability to produce clinical grade Oxycyte.

Our cosmetic formulations are manufactured by multiple domestic contract manufacturers.

Intellectual Property

We rely on a combination of patent applications, patents, trade secrets, proprietary know-how, trademarks, and contractual provisions to protect our proprietary rights. We believe that to have a competitive advantage, we must develop and maintain the proprietary aspects of our technologies. Currently, we require our officers, employees, consultants, contractors, manufacturers, outside scientific collaborators and sponsored researchers, and other advisors to execute confidentiality agreements in connection with their employment, consulting, or advisory relationships with us, where appropriate. We also require our employees, consultants, and advisors who we expect to work on our products to agree to disclose and assign to us all inventions conceived during the work day, developed using our property, or which relate to our business.

To date, we own or in-license the rights to 8 U.S. and foreign patents. In addition, we have numerous U.S. patent applications pending that are complemented by the appropriate foreign patent applications related to our product candidates and proprietary processes, methods and technologies. Our issued and in-licensed patents, as well as our pending patents, expire between 2014 and 2030.

We have:

- three U.S. patents (5,824,703; 5,840,767; 6,167,887), three Australian patents (690,277; 722,417; 759,557), and two Canadian patents (2,239,170; 2,311,122) pertaining to the use and application of PFCs as gas transport agents in blood substitutes and liquid ventilation with an average remaining life of approximately 4 years;

- exclusive in-licenses to three fundamental gas transport patent applications that represent the core technology used in our products and product candidates with an average remaining life of approximately 16 years; and

- numerous patent applications for treatment of several medical and dermatological conditions such as TBI, acne, burns and wounds with an average remaining life of approximately 17 years.

Our patent and patent applications include claims covering:

- methods to treat certain diseases and conditions and for biological gas exchange;

- therapies for burn and wound victims;

- delivery of oxygenated PFC;

- various formulations containing PFC; and

- methods and compositions for controlled and sustained production and delivery of peroxide and/or oxygen for biological and industrial applications.

We have received U.S. trademark registrations for Oxycyte®, Dermacyte®, Defense Medicine® and Oxygen Biotherapeutics, Employing O2, Preserving Life®. We have trademark applications pending for the following marks: Acnecyte™, Wundecyte™ and Vitavent™.

In addition, we own numerous domain names relevant to our business, such as www.oxygenbiotherapeutics.com, www.DermacyteUS.com, www.oxybiomed.com, and others.

Government regulation

The manufacture and distribution of Oxycyte, as well as our other products, and the operation of our manufacturing facilities will require the approval of United States government authorities as well as those of foreign countries. In the United States, the FDA regulates medical products. The Federal Food, Drug and Cosmetic Act and the Public Health Service Act govern the testing, manufacture, safety, effectiveness, labeling, storage, record keeping, approval, advertising and promotion of our medical products. In addition to FDA regulations, we are also subject to other federal and state regulations, such as the Occupational Safety and Health Act and the Environmental Protection Act. Product development and approval within this regulatory framework requires a number of years and involves the expenditure of substantial funds.

The steps required before a biological product may be sold commercially in the United States include preclinical testing, the submission to the FDA of an IND, clinical trials in humans to establish the safety and effectiveness of the product, the submission to the FDA of a Biologics License Application, or BLA, relating to the product and the manufacturing facilities to be used to produce the product for commercial sale, and FDA approval of a BLA. After a BLA is submitted there is an initial review by the FDA to be sure that all of the required elements are included in the submission. There can be no assurance that the application will be accepted for filing or that the FDA may not issue a refusal to file, or RTF. If a RTF is issued, there is opportunity for dialogue between the sponsor and the FDA in an effort to resolve all concerns. There can be no assurance that such a dialogue will be successful in leading to the filing of the BLA. If the submission is filed, there can be no assurance that the full review will result in product approval.

Preclinical tests include evaluation of product chemistry and studies to assess the safety and effectiveness of the product and its formulation. The results of the preclinical tests are submitted to the FDA as part of the application. The goal of clinical testing is the demonstration in adequate and well-controlled studies of substantial evidence of the safety and effectiveness of the product in the setting of its intended use. The results of preclinical and clinical testing are submitted to the FDA from time to time throughout the trial process. In addition, before approval for the commercial sale of a product can be obtained, results of the preclinical and clinical studies must be submitted to the FDA in the form of a BLA. The testing and approval process requires substantial time and effort and there can be no assurance that any approval will be granted on a timely basis, if at all. The approval process is affected by a number of factors, including the severity of the condition being treated, the availability of alternative treatments and the risks and benefits demonstrated in clinical trials. Additional preclinical studies or clinical trials may be requested during the FDA review process and may delay product approval. After FDA approval for its initial indications, further clinical trials may be necessary to gain approval for the use of a product for additional indications. The FDA may also require post-marketing testing, which can involve significant expense, to monitor for adverse effects.

Among the conditions for BLA approval is the requirement that the prospective manufacturer's quality controls and manufacturing procedures conform to FDA requirements. In addition, domestic manufacturing facilities are subject to biennial FDA inspections and foreign manufacturing facilities are subject to periodic FDA inspections or inspections by the foreign regulatory authorities with reciprocal inspection agreements with FDA. Outside the United States, we are also subject to foreign regulatory requirements governing clinical trials and marketing approval for medical products. The requirements governing the conduct of clinical trials, product licensing, pricing and reimbursement vary widely from country to country.

Our regulatory strategy is to pursue Phase II clinical testing and initial regulatory approval of Oxycyte in Switzerland and Israel. We then intend to use the results of these tests to pursue FDA approval for Phase III clinical tests and marketing approval of Oxycyte in the United States.

Research and Development

Our research and development efforts have been, and will continue to be focused on furthering the development and manufacture of Oxycyte for its use in clinical indications, primarily traumatic brain injury, spinal cord injury, and decompression sickness. We will also focus on developing Dermacyte and Wundecyte through further investments in preclinical and clinical studies. We spent approximately $2.5 million on research and development during each of the fiscal years ended April 30, 2013 and 2012.

Employees

We believe that our success will be based on, among other things, the quality of our clinical programs, our ability to invent and develop superior and innovative technologies and products, and our ability to attract and retain capable management and other personnel. We have assembled a high quality team of scientists, clinical development managers, and executives with significant experience in the biotechnology and pharmaceutical industries.

As of April 30, 2013, we had 12 full-time employees. In addition to our employees, we also use the service and support of outside consultants and advisors. None of our employees is represented by a union, and we believe relationships with our employees are good .

ITEM 1A—RISK FACTORS

Risks Related to Our Financial Position and Need for Additional Capital

We will need substantial additional funding and if we are unable to raise capital when needed, we would be forced to delay, reduce or eliminate our product development programs.

Developing biopharmaceutical products, including conducting preclinical studies and clinical trials and establishing manufacturing capabilities, is expensive. We expect our research and development expenses to increase in connection with our ongoing activities, particularly as we focus on and proceed with our Phase II-B clinical program and begin clinical trials for our other products. In addition, our expenses could increase beyond expectations if applicable regulatory authorities, including the FDA, require that we perform additional studies to those that we currently anticipate, in which case the timing of any potential product approval may be delayed. We believe that as of June 20, 2013 our existing cash and cash equivalents will be sufficient to fund our projected operating requirements through July 31, 2013. We will need substantial additional capital in the future in order to complete the development and commercialization of Oxycyte and to fund the development and commercialization of future product candidates. Until we can generate a sufficient amount of product revenue, if ever, we expect to finance future cash needs through public or private equity offerings, debt financings or corporate collaboration and licensing arrangements. Such funding, if needed, may not be available on favorable terms, if at all. In the event we are unable to obtain additional capital, we may delay or reduce the scope of our current research and development programs and other expenses.

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 significant dilution, and debt financing, if available, may involve restrictive covenants. To the extent that we raise additional funds through collaboration and licensing arrangements, it may be necessary to relinquish some rights to our technologies or our product candidates or to 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.

Our forecast of the period of time through which our financial resources will be adequate to support our operations is a forward-looking statement and involves risks and uncertainties, and actual results could vary as a result of a number of factors, including the factors discussed elsewhere in this “Risk Factors” section. We have based this estimate on assumptions that may prove to be wrong, and we could utilize our available capital resources sooner than we currently expect. Our future funding requirements will depend on many factors, including, but not limited to:

- the scope, rate of progress and cost of our clinical trials and other research and development activities;
- the costs and timing of regulatory approval;

- the costs of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights;
- the effect of competing technological and market developments;
- the terms and timing of any collaboration, licensing or other arrangements that we may establish;
- the cost and timing of completion of clinical and commercial-scale manufacturing activities; and
- the costs of establishing sales, marketing and distribution capabilities for our cosmetic products and any product candidates for which we may receive regulatory approval.

We are a development stage company and have a history of net losses. Currently, we have two products available for commercial sale, and to date we have not generated any significant product revenue. As a result, we expect to continue to incur substantial net losses for the foreseeable future, which raises doubt about our ability to continue as a going concern.

We began research and development activities in 1990 and are a development stage company. We have incurred significant net losses and negative cash flow in each year since our inception, including net losses of approximately $9.4 million and $15.7 million for the years ended April 30, 2013 and 2012, respectively. As of April 30, 2013 our accumulated deficit was approximately $117 million. We have devoted most of our financial resources to research and development, including our preclinical development activities and clinical trials. No revenues have been generated to date from commercial sales of any of our products, except for limited revenues from our topical cosmetic product, Dermacyte. We expect to have substantial expenses as we continue with our Phase II-B clinical program for Oxycyte, our most advanced clinical product candidate, and as we conduct other clinical trials. In addition, if we are required by applicable regulatory authorities, including the FDA, to perform studies in addition to those we currently anticipate, our expenses will increase beyond expectations and the timing of any potential product approval may be delayed. In addition, we expect to continue to incur costs to support operations as a public company. As a result, we may continue to incur substantial net losses and negative cash flow for the foreseeable future. These losses and negative cash flows have had, and will continue to have, an adverse effect on our stockholders' equity and working capital.

Because of the numerous risks and uncertainties associated with pharmaceutical product development, we are unable to accurately predict the timing or amount of substantial expenses or when, or if, we will be able to achieve or maintain profitability. We have financed our operations primarily through the sale of equity securities and debt financings. The size of our future net losses will depend, in part, on the rate of growth of our expenses and the rate of growth of our revenues. If we are unable to develop and commercialize our other product candidates or if sales revenue from Dermacyte is insufficient, we will not achieve profitability. Even if we do achieve profitability, we may not be able to sustain or increase profitability.

As a result of the foregoing circumstances our independent registered public accounting firm has included, and is likely in the future to include, an explanatory paragraph in their audit opinions based on uncertainty regarding our ability to continue as a going concern. An audit opinion of this type may negatively impact our ability to obtain debt or equity financing in the future.

We have a limited operating history, and we expect a number of factors to cause our operating results to fluctuate on a quarterly and annual basis, which may make it difficult to predict our future performance.

Our operations, to date, have been primarily limited to organizing and staffing our company, developing our technology and undertaking preclinical studies and clinical trials of our product candidates. We have not yet obtained regulatory approvals for any of our clinical product candidates. Consequently, any predictions you make about our future success or viability may not be as accurate as they could be if we had a longer operating history.

Specifically, our financial condition and operating results have varied significantly in the past and will continue to fluctuate from quarter-to-quarter and year-to-year in the future due to a variety of factors, many of which are beyond our control. Factors relating to our business that may contribute to these fluctuations include the following factors, among others:

- our ability to obtain additional funding to develop our product candidates;
- the need to obtain regulatory approval of our most advanced product candidate, Oxycyte, for the potential treatment of TBI;
- potential risks related to any collaborations we may enter into for our product candidates, including Oxycyte;
- delays in the commencement, enrollment and completion of clinical testing, as well as the analysis and reporting of results from such clinical testing;
- the success of clinical trials of our Oxycyte product candidate or future product candidates;
- any delays in regulatory review and approval of product candidates in development;
- market acceptance of our cosmetic product candidates;
- our ability to establish an effective sales and marketing infrastructure;
- competition from existing products or new products that may emerge;
- the ability to receive regulatory approval or commercialize our products;
- potential side effects of our product candidates that could delay or prevent commercialization;
- potential product liability claims and adverse events;
- potential liabilities associated with hazardous materials;
- our ability to maintain adequate insurance policies;
- our dependency on third-party manufacturers to supply or manufacture our products;
- our ability to establish or maintain collaborations, licensing or other arrangements;
- our ability, our partners' abilities, and third parties' abilities to protect and assert intellectual property rights;
- costs related to and outcomes of potential and ongoing litigation;
- compliance with obligations under intellectual property licenses with third parties;
- our ability to adequately support future growth; and
- our ability to attract and retain key personnel to manage our business effectively.

Due to the various factors mentioned above, and others, the results of any prior quarterly or annual periods should not be relied upon as indications of our future operating performance.

Risks Related to Commercialization and Product Development

We are limited in the number of products we can simultaneously pursue and therefore our survival depends on our success with a small number of product opportunities.

We have limited financial resources, so at present we are primarily focusing these resources on developing our Oxycyte oxygen carrier product. We have delayed development on our Wundecyte topical wound product and Vitavent, our oxygen-carrying liquid, until we find a licensing partner willing to pursue development or obtain additional financing to pursue development ourselves. At present we intend to commit most of our resources to advancing Oxycyte to the point it receives regulatory approval for one or more medical uses, and if this effort is unsuccessful we may not have resources to pursue development of our other products and our business would terminate. Furthermore, by delaying development of Vitavent, this technology may become obsolete by the time we have sufficient capital to resume development and testing, so the funds expended on this product to date would be lost, as well as our opportunity to benefit if the product could be successfully developed.

We currently have no approved drug products for sale and we cannot guarantee that we will ever have marketable drug products.

We currently have no approved drug products for sale. The research, testing, manufacturing, labeling, approval, selling, marketing, and distribution of drug products are subject to extensive regulation by the FDA and other regulatory authorities in the United States and other countries, with regulations differing from country to country. We are not permitted to market our product in the United States until we receive approval of a new drug application, or an NDA, from the FDA for each product candidate. We have not submitted an NDA or received marketing approval for any of our product candidates. Obtaining approval of an NDA is a lengthy, expensive and uncertain process. Markets outside of the United States also have requirements for approval of drug candidates which we must comply with prior to marketing. Accordingly, we cannot guarantee that we will ever have marketable drug products.

The development of Oxycyte is subject to a high level of technological risk.

We expect to devote a substantial portion of our financial and managerial resources to pursuing Phase II and Phase III clinical trials on Oxycyte over the next three years. The biomedical field has undergone rapid and significant technological changes. Technological developments may result in Oxycyte becoming obsolete or non-competitive before we are able to recover any portion of the research and development and other expenses we have incurred to develop and clinically test Oxycyte. As our opportunity to generate substantial product revenues within the next four to five years is most likely dependent on successful testing and commercialization of Oxycyte for surgical and similar oxygen delivery applications, any such occurrence would have a material adverse effect on our operations and could result in the cessation of our business.

We may be required to conduct additional clinical trials in the future, which are expensive and time consuming, and the outcome of the trials is uncertain.

We expect to commit a substantial portion of our financial and business resources over the next three years to testing Oxycyte and advancing this product to regulatory approval for use in one or more medical applications. We completed Phase I clinical trials on Oxycyte in December 2003 and completed Phase II-A clinical testing in the fourth quarter of 2004 with filings completed in the second quarter of 2008. A Phase II-B study protocol was filed with the FDA in the spring of 2008, but was put on clinical hold due to safety concerns raised by the FDA. We then filed a revised protocol as a dose-escalation study with the regulatory authorities in Switzerland and Israel. Swissmedic approved the protocol in August 2009 and the Israel Ministry of Health in September 2009. The new study began in October 2009 and is currently under way both in Switzerland and Israel. If this study is successful (of which there is no assurance) we will need to conduct further trials. All of these clinical trials and testing will be expensive and time consuming and the timing of the regulatory review process is uncertain. The applicable regulatory agencies may suspend clinical trials at any time if they believe that the subjects participating in such trials are being exposed to unacceptable health risks. We cannot ensure that we will be able to complete our clinical trials successfully or obtain FDA or other governmental or regulatory approval of Oxycyte, or that such approval, if obtained, will not include limitations on the indicated uses for which Oxycyte may be marketed. Our business, financial condition and results of operations are critically dependent on obtaining capital to advance our testing program and receiving FDA and other governmental and regulatory approvals of Oxycyte. A significant delay in or failure of our planned clinical trials or a failure to achieve these approvals would have a material adverse effect on us and could result in major setbacks or jeopardize our ability to continue as a going concern.

The market may not accept our products.

Even if regulatory approval is obtained, there is a risk that the efficacy and pricing of Oxycyte, considered in relation to Oxycyte's expected benefits, will not be perceived by health care providers and third-party payers as cost-effective, and that the price of Oxycyte will not be competitive with other new technologies or products. Our results of operations may be adversely affected if the price of Oxycyte is not considered cost-effective or if Oxycyte does not otherwise achieve market acceptance.

There are significant competitors developing similar products.

If approved for commercial sale, Oxycyte will compete directly with established therapies for oxygen delivery and acute blood loss and may compete with other technologies currently under development. Oxycyte may not have advantages that will be significant enough to cause medical professionals to adopt it rather than continue to use established therapies or to adopt other new technologies or products. There is also a risk that the cost of Oxycyte will not be competitive with the cost of established therapies or other new technologies or products. Our commercial supply price under our agreement with NextPharma, the current manufacturer of Oxycyte, has not yet been determined. This supply price will affect the price we charge our customers for the product. As there is currently no oxygen-delivery product of our kind on the market, competition to develop an efficacious and accepted product is intense. Several companies have developed or are in the process of developing technologies that are, or in the future may be, the basis for products that will compete with Oxycyte. Certain of these companies are pursuing different approaches or means of accomplishing the therapeutic effects sought to be achieved through the use of Oxycyte.

These companies and others may have substantially greater financial resources, larger research and development staffs, more extensive facilities and more experience in testing, manufacturing, marketing and distributing medical products than we do. It is possible that one or more other companies will succeed in developing technologies or products that will become available for commercial use prior to Oxycyte that could be more effective or less costly than Oxycyte or that would render Oxycyte obsolete or non-competitive.

Any collaboration we enter with third parties to develop and commercialize our product candidates may place the development of our product candidates outside our control, may require us to relinquish important rights or may otherwise be on terms unfavorable to us.

We may enter into collaborations with third parties to develop and commercialize our product candidates, including Oxycyte. Our dependence on future partners for development and commercialization of our product candidates would subject us to a number of risks, including:

- we may not be able to control the amount and timing of resources that our partners may devote to the development or commercialization of product candidates or to their marketing and distribution;
- partners may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial or abandon a product candidate, repeat or conduct new clinical trials or require a new formulation of a product candidate for clinical testing;
- disputes may arise between us and our partners that result in the delay or termination of the research, development or commercialization of our product candidates or that result in costly litigation or arbitration that diverts management's attention and resources;
- partners may experience financial difficulties;

- partners may not properly maintain or defend our intellectual property rights, or may use our proprietary information, in such a way as to invite litigation that could jeopardize or invalidate our intellectual property rights or proprietary information or expose us to potential litigation;
- business combinations or significant changes in a partner's business strategy may adversely affect a partner's willingness or ability to meet its obligations under any arrangement;
- a partner could independently move forward with a competing product candidate developed either independently or in collaboration with others, including our competitors; and
- the collaborations with our partners may be terminated or allowed to expire, which would delay the development and may increase the cost of developing our product candidates.

Delays in the commencement, enrollment and completion of clinical testing could result in increased costs to us and delay or limit our ability to obtain regulatory approval for our product candidates.

Delays in the commencement, enrollment and completion of clinical testing could significantly affect our product development costs. We do not know whether planned clinical trials for Oxycyte will begin on time or be completed on schedule, if at all. The commencement and completion of clinical trials requires us to identify and maintain a sufficient number of trial sites, many of which may already be engaged in other clinical trial programs for the same indication as our product candidates or may be required to withdraw from our clinical trial as a result of changing standards of care or may become ineligible to participate in clinical studies. The commencement, enrollment and completion of clinical trials can be delayed for a variety of other reasons, including delays related to:

- reaching agreements on acceptable terms with prospective CROs and trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and trial sites;
- obtaining regulatory approval to commence a clinical trial;
- obtaining institutional review board, or IRB, approval to conduct a clinical trial at numerous prospective sites;
- recruiting and enrolling patients to participate in clinical trials for a variety of reasons, including meeting the enrollment criteria for our study and competition from other clinical trial programs for the same indication as our product candidates;
- retaining patients who have initiated a clinical trial but may be prone to withdraw due to the treatment protocol, lack of efficacy, personal issues or side effects from the therapy or who are lost to further follow-up;
- maintaining and supplying clinical trial material on a timely basis; and
- collecting, analyzing and reporting final data from the clinical trials.

In addition, a clinical trial may be suspended or terminated by us, the FDA or other regulatory authorities due to a number of factors, including:

- failure to conduct the clinical trial in accordance with regulatory requirements or our clinical protocols;
- inspection of the clinical trial operations or trial sites by the FDA or other regulatory authorities resulting in the imposition of a clinical hold;
- unforeseen safety issues or any determination that a trial presents unacceptable health risks; and
- lack of adequate funding to continue the clinical trial, including unforeseen costs due to enrollment delays, requirements to conduct additional trials and studies and increased expenses associated with the services of our CROs and other third parties.

Changes in regulatory requirements and guidance may occur and we may need to amend clinical trial protocols to reflect these changes with appropriate regulatory authorities. Amendments may require us to resubmit our clinical trial protocols to IRBs for re-examination, which may impact the costs, timing or successful completion of a clinical trial. If we experience delays in the completion of, or if we terminate, our clinical trials, the commercial prospects for our product candidates will be harmed, and our ability to generate product revenues will be delayed. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical trials may also ultimately lead to the denial of regulatory approval of a product candidate. Even if we are able to ultimately commercialize our product candidates, other therapies for the same or similar indications may have been introduced to the market and established a competitive advantage.

Risks Relating to Regulatory Matters

Our activities are and will continue to be subject to extensive government regulation, which is expensive and time consuming, and we will not be able to sell our Oxycyte product without regulatory approval.

Our research, development, testing, manufacturing, marketing and distribution of Oxycyte products are, and will continue to be, subject to extensive regulation, monitoring and approval by the FDA and other regulatory agencies. There are significant risks at each stage of the regulatory scheme.

Product approval stage

During the product approval stage we attempt to prove the safety and efficacy of our product for its indicated uses. There are numerous problems that could arise during this stage, including:

- The data obtained from laboratory testing and clinical trials are susceptible to varying interpretations, which could delay, limit or prevent FDA and other regulatory approvals
- Adverse events could cause the FDA and other regulatory authorities to halt trials
- At any time the FDA and other regulatory agencies could change policies and regulations that could result in delay and perhaps rejection of our products, and
- Even after extensive testing and clinical trials, there is no assurance that regulatory approval will ever be obtained for any of our products.

Commercialization approval stage

We will be required to file a BLA with the FDA in order to obtain regulatory approval for the commercial production and sale of Oxycyte in the United States and similar applications with regulatory authorities in countries where we seek to commercialize Oxycyte. Under FDA guidelines, the FDA may comment upon the acceptability of the applicable application following its submission. After an application is submitted, there is an initial review to be sure that all of the required elements are included in the submission. There can be no assurance that the submission will be accepted for filing or that the FDA may not issue an RTF. If an RTF is issued, there is opportunity for dialogue between the sponsor and the FDA in an effort to resolve all concerns. There can be no assurance that such a dialogue will be successful in leading to the filing of the BLA. If the submission is filed, there can be no assurance that the full review will result in product approval.

Post-commercialization stage

Discovery of previously unknown problems with Oxycyte or another product, or unanticipated problems with our manufacturing arrangements, even after FDA and other regulatory approvals of Oxycyte or another product for commercial sale may result in the imposition of significant restrictions, including withdrawal of the product from the market. Our previous agreement with Hospira was exclusive, and as a consequence, delays in supply by Hospira could have caused us to be unable to supply our customers' demand. On August 30, 2011, we and Hospira entered into a Termination Agreement pursuant to which we mutually agreed to terminate the supply agreement related to the development, manufacture, supply and distribution of Oxycyte. No early termination penalties or other payments were incurred by either party in connection with the termination.

In September 2011 we entered into a development and supply agreement with NextPharma, Inc. to manufacture our Oxycyte emulsion for clinical use under cGMP standards. In January 2012, NextPharma transferred the manufacturing process from Hospira, our previous supplier, to their cGMP facilities and demonstrated their ability to produce clinical grade Oxycyte.

Additional laws and regulations may also be enacted that could prevent or delay regulatory approval of Oxycyte or our other products, including laws or regulations relating to the price or cost-effectiveness of medical products. Any delay or failure to achieve regulatory approval of commercial sales of our products is likely to have a material adverse effect on our financial condition, results of operations and cash flows.

The FDA and other regulatory agencies continue to review products even after they receive agency approval. If and when the FDA or another regulatory agency outside the United States approves one of our products, its manufacture and marketing will be subject to ongoing regulation, which could include compliance with current good manufacturing practices, adverse event reporting requirements and general prohibitions against promoting products for unapproved or "off-label" uses. We are also subject to inspection and market surveillance by the FDA for compliance with these and other requirements. Any enforcement action resulting from failure, even by inadvertence, to comply with these requirements could affect the manufacture and marketing of Oxycyte or our other products. In addition, the FDA or other regulatory agencies could withdraw a previously approved product from the market upon receipt of newly discovered information. The FDA or another regulatory agency could also require us to conduct additional, and potentially expensive, studies in areas outside our approved indicated uses.

We must continually monitor the safety of our products once approved and marketed for signs that their use may elicit serious and unexpected side effects and adverse events, which could jeopardize our ability to continue marketing the products. We may also be required to conduct post-approval clinical studies as a condition to licensing a product.

As with all pharmaceutical products, the use of our products could sometimes produce undesirable side effects or adverse reactions or events (referred to cumulatively as adverse events). For the most part, we would expect these adverse events to be known and occur at some predicted frequency. When adverse events are reported to us, we will be required to investigate each event and circumstances surrounding it to determine whether it was caused by our product and whether it implies that a previously unrecognized safety issue exists. We will also be required to periodically report summaries of these events to the applicable regulatory authorities.

In addition, the use of our products could be associated with serious and unexpected adverse events, or with less serious reactions at a greater than expected frequency. This may be especially true when our products are used in critically ill or otherwise compromised patient populations. When these unexpected events are reported to us, we will be required to make a thorough investigation to determine causality and implications for product safety. These events must also be specifically reported to the applicable regulatory authorities. If our evaluation concludes, or regulatory authorities perceive, that there is an unreasonable risk associated with the product, we would be obligated to withdraw the impacted lot(s) of that product. Furthermore, an unexpected adverse event of a new product could be recognized only after extensive use of the product, which could expose us to product liability risks, enforcement action by regulatory authorities and damage to our reputation and public image.

A serious adverse finding concerning the risk of Oxycyte by any regulatory authority could adversely affect our reputation, business and financial results.

When a new product is approved, the FDA or other regulatory authorities may require post-approval clinical trials, sometimes called Phase IV clinical trials. If the results of such trials are unfavorable, this could result in the loss of the license to market the product, with a resulting loss of sales.

After our products are commercialized, we expect to spend considerable time and money complying with federal and state laws and regulations governing their sale, and, if we are unable to fully comply with such laws and regulations, we could face substantial penalties.

Health care providers, physicians and others will play a primary role in the recommendation and prescription of our clinical products. Our arrangements with third-party payers and customers may expose us to broadly applicable fraud and abuse and other health care laws and regulations that may constrain the business or financial arrangements and relationships through which we will market, sell and distribute our products. Applicable federal and state health care laws and regulations are expected to include, but not be limited to, the following:

- The federal anti-kickback statute is a criminal statute that makes it a felony for individuals or entities knowingly and willfully to offer or pay, or to solicit or receive, direct or indirect remuneration, in order to induce the purchase, order, lease, or recommending of items or services, or the referral of patients for services, that are reimbursed under a federal health care program, including Medicare and Medicaid;

- The federal False Claims Act imposes liability on any person who knowingly submits, or causes another person or entity to submit, a false claim for payment of government funds. Penalties include three times the government's damages plus civil penalties of $5,500 to $11,000 per false claim. In addition, the False Claims Act permits a person with knowledge of fraud, referred to as a qui tam plaintiff, to file a lawsuit on behalf of the government against the person or business that committed the fraud, and, if the action is successful, the qui tam plaintiff is rewarded with a percentage of the recovery;

- Health Insurance Portability and Accountability Act imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information;

- The Social Security Act contains numerous provisions allowing the imposition of a civil money penalty, a monetary assessment, exclusion from the Medicare and Medicaid programs, or some combination of these penalties; and

- Many states have analogous state laws and regulations, such as state anti-kickback and false claims laws. In some cases, these state laws impose more strict requirements than the federal laws. Some state laws also require pharmaceutical companies to comply with certain price reporting and other compliance requirements.

Our failure to comply with any of these federal and state health care laws and regulations, or health care laws in foreign jurisdictions, could have a material adverse effect on our business, financial condition, result of operations and cash flows.

Health care reform and controls on health care spending may limit the price we can charge for Oxycyte and the amount we can sell.

As a result of legislation signed by President Obama on March 22, 2010, substantial changes are expected to occur in the current system for paying for health care in the United States, including changes made in order to extend medical benefits to those who currently lack insurance coverage. Approximately 47 million Americans currently lack health insurance of any kind. Extending coverage to such a large population could substantially change the structure of the health insurance system and the methodology for reimbursing medical services, drugs and devices. Restructuring the coverage of medical care in the United States could impact the reimbursement for prescribed drugs and biopharmaceuticals, including our products. If reimbursement for these products is limited, or rebate obligations associated with them are substantially increased, our financial condition, results of operations and cash flows could be materially impacted.

Extending medical benefits to those who currently lack coverage will likely result in substantial cost to the federal government, which may force significant changes to the United States health care system. Much of the funding for expanded health care coverage may be sought through cost savings. While some of these savings may come from realizing greater efficiencies in delivering care, improving the effectiveness of preventive care and enhancing the overall quality of care, much of the cost savings may come from reducing the cost of care. Cost of care could be reduced by reducing the level of reimbursement for medical services or products (including those biopharmaceuticals that we intend to produce and market), or by restricting coverage (and, thereby, utilization) of medical services or products. In either case, a reduction in the utilization of, or reimbursement for, our products could have a materially adverse impact on our financial performance.

Uncertainty of third-party reimbursement could affect our future results of operations.

Sales of medical products largely depend on the reimbursement of patients' medical expenses by governmental health care programs and private health insurers. We will be required to report detailed pricing information, net of included discounts, rebates and other concessions, to the Centers for Medicare and Medicaid Services, or CMS, for the purpose of calculating national reimbursement levels, certain federal prices, and certain federal rebate obligations. If we report pricing information that is not accurate to the federal government, we could be subject to fines and other sanctions that could adversely affect our business. In addition, the government could change its calculation of reimbursement, federal prices, or federal rebate obligations which could negatively impact us. There is no guarantee that government health care programs or private health insurers will reimburse our sales of Oxycyte, or permit us to sell our product at high enough prices to generate a profit.

Governments outside the United States tend to impose strict price controls and reimbursement approval policies, which may adversely affect our prospects for generating revenue outside the United States.

In some countries, particularly European Union countries, the pricing of prescription pharmaceuticals is subject to governmental control. In these countries, pricing negotiations with governmental authorities can take considerable time (6 to 12 months or longer) after the receipt of marketing approval for a product. To obtain reimbursement or pricing approval in some countries with respect to any product candidate that achieves regulatory approval, we may be required to conduct a clinical trial that compares the cost-effectiveness of our product candidate to other available therapies. If reimbursement of our products upon approval, if at all, is unavailable or limited in scope or amount, or if pricing is set at unsatisfactory levels, our prospects for generating revenue, if any, could be adversely affected which would have a material adverse effect on our business and results of operations. Further, if we achieve regulatory approval of any product, we must successfully negotiate product pricing for such product in individual countries. As a result, the pricing of our products, if approved, in different countries may vary widely, thus creating the potential for third-party trade in our products in an attempt to exploit price differences between countries. This third-party trade of our products could undermine our sales in markets with higher prices.

Risks Relating to Our Dependence on Third Parties

We depend on third parties to manufacture our products.

We do not own or operate any manufacturing facilities for the commercial-scale production of Oxycyte. Instead, we rely on third party manufacturers. NextPharma currently manufacturers Oxycyte for us, and Fluoromed currently produces FtBu for us. In the past we have used PrimaPharm and Hospira for the manufacture of Oxycyte. In order to seek regulatory approval of the sale of Oxycyte produced at the NextPharma manufacturing facility and because of the level of inventory produced by PrimaPharm and Hospira in the past, we may be required to conduct a portion of our clinical trials with product manufactured at the NextPharma facility. Accordingly, a delay in achieving scale-up of commercial manufacturing capabilities when needed will have a material adverse effect on sales of our products. Additionally, the manufacture of our products will be subject to extensive government regulation. Among the conditions for marketing approval is that our quality control and manufacturing procedures conform to applicable good manufacturing practice regulations. There is a risk that we will not be able to obtain the necessary regulatory clearances or approvals to manufacture our products on a timely basis or at all.

If NextPharma or Fluoromed are unable to supply Oxycyte or FtBu, respectively, to use in the quantities needed, we may be unable to conclude agreements with a replacement manufacturer on favorable terms, if at all, and may be delayed in identifying and qualifying such replacement. In any event, identifying and qualifying new third-party manufacturers could involve significant costs associated with the transfer of the active pharmaceutical ingredient or finished product manufacturing process. A change in manufacturer likely would require formal approval by the FDA or other regulatory agencies before the new manufacturer could produce commercial supplies of our products. This approval process would likely take at least 12 to 18 months and, during that time, we could face a shortage of supply of our products, which could negatively affect our financial condition, results of operations and cash flows.

The manufacturing process for Oxycyte is complicated and time consuming, and may experience problems that would limit our ability to manufacture and sell our products.

Our products require product manufacturing steps that are complicated, time consuming and costly. Minor deviations in the manufacturing processes or other problems could result in unacceptable changes in the products that result in lot failures, increased production scrap, shipment delays, regulatory problems, product recalls or product liability, all of which could negatively affect our financial condition, the results of our operations and cash flows.

We depend on the services of a limited number of key personnel.

Our success is highly dependent on the continued services of a limited number of scientists and support personnel. The loss of any of these individuals could have a material adverse effect on us. In addition, our success will depend, among other factors, on the recruitment and retention of additional highly skilled and experienced management and technical personnel. There is a risk that we will not be able to retain existing employees or to attract and retain additional skilled personnel on acceptable terms given the competition for such personnel among numerous large and well-funded pharmaceutical and health care companies, universities, and non-profit research institutions, which could negatively affect our financial condition, results of operations and cash flows. Since August 24, 2011, Michael B. Jebsen has served as both our Chief Financial Officer and our interim Chief Executive Officer. While we continue to search for a permanent Chief Executive Officer, we can give no assurances as to when, or if, we will locate a suitable candidate, and we may be adversely affected if we are unable to identify a qualified permanent Chief Executive Officer in a timely manner.

We have limited experience in the sale and marketing of cosmetics and medical products.

We have limited experience in the sale and marketing of cosmetics and approved medical products and marketing the licensing of such products before FDA or other regulatory approval. We have not decided upon a commercialization strategy in these areas. We do not know of any third party that is prepared to distribute Oxycyte should it be approved. If we decide to establish our own commercialization capability, we will need to recruit, train and retain a marketing staff and sales force with sufficient technical expertise. We do not know whether we can establish a commercialization program at a cost that is acceptable in relation to revenue or whether we can be successful in commercializing our product. Factors that may inhibit our efforts to commercialize our products directly and without strategic partners include:

- Our inability to recruit and retain adequate numbers of effective sales and marketing personnel;
- The inability of sales personnel to obtain access to or persuade adequate numbers of physicians to prescribe our products;
- The lack of complementary products to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies with more extensive product lines; and
- Unforeseen costs and expenses associated with creating and sustaining an independent sales and marketing organization.

Failure to successfully commercialize Oxycyte or to do so on a cost effective basis would likely result in failure of our business.

We may enter into distribution arrangements and marketing alliances for certain products and any failure to successfully identify and implement these arrangements on favorable terms, if at all, may impair our ability to commercialize our product candidates.

We do not anticipate having the resources in the foreseeable future to develop global sales and marketing capabilities for all of the products we develop, if any. We may pursue arrangements regarding the sales and marketing and distribution of one or more of our product candidates and our future revenues may depend, in part, on our ability to enter into and maintain arrangements with other companies having sales, marketing and distribution capabilities and the ability of such companies to successfully market and sell any such products. Any failure to enter into such arrangements and marketing alliances on favorable terms, if at all, could delay or impair our ability to commercialize our product candidates and could increase our costs of commercialization. Any use of distribution arrangements and marketing alliances to commercialize our product candidates will subject us to a number of risks, including the following:

- We may be required to relinquish important rights to our products or product candidates;
- We may not be able to control the amount and timing of resources that our distributors or collaborators may devote to the commercialization of our product candidates;
- Our distributors or collaborators may experience financial difficulties;
- Our distributors or collaborators may not devote sufficient time to the marketing and sales of our products; and
- Business combinations or significant changes in a collaborator’s business strategy may adversely affect a collaborator’s willingness or ability to complete its obligations under any arrangement.

We may need to enter into additional co-promotion arrangements with third parties where our own sales force is neither well situated nor large enough to achieve maximum penetration in the market. We may not be successful in entering into any co-promotion arrangements, and the terms of any co-promotion arrangements we enter into may not be favorable to us.

Risks Relating to Intellectual Property

It is difficult and costly to protect our proprietary rights, and we may not be able to ensure their protection.

Our commercial success will depend in part on obtaining and maintaining patent protection and trade secret protection of our product candidates and the methods used to manufacture them, as well as successfully defending these patents against third-party challenges. Our ability to stop third parties from making, using, selling, offering to sell or importing our products is dependent upon the extent to which we have rights under valid and enforceable patents or trade secrets that cover these activities.

We license certain intellectual property from third parties that covers our product candidates. We rely on certain of these third parties to file, prosecute and maintain patent applications and otherwise protect the intellectual property to which we have a license, and we have not had and do not have primary control over these activities for certain of these patents or patent applications and other intellectual property rights. We cannot be certain that such activities by third parties have been or will be conducted in compliance with applicable laws and regulations or will result in valid and enforceable patents and other intellectual property rights. Our enforcement of certain of these licensed patents or defense of any claims asserting the invalidity of these patents would also be subject to the cooperation of the third parties.

The patent positions of pharmaceutical and biopharmaceutical companies can be highly uncertain and involve complex legal and factual questions for which important legal principles remain unresolved. No consistent policy regarding the breadth of claims allowed in biopharmaceutical patents has emerged to date in the United States. The biopharmaceutical patent situation outside the United States is even more uncertain. Changes in either the patent laws or in interpretations of patent laws in the United States and other countries may diminish the value of our intellectual property. Accordingly, we cannot predict the breadth of claims that may be allowed or enforced in the patents we own or to which we have a license from a third-party. Further, if any of our patents are deemed invalid and unenforceable, it could impact our ability to commercialize or license our technology.

The degree of future protection for our proprietary rights is uncertain because legal means afford only limited protection and may not adequately protect our rights or permit us to gain or keep our competitive advantage. For example:

- others may be able to make compositions or formulations that are similar to our product candidates but that are not covered by the claims of our patents;
- we might not have been the first to make the inventions covered by our issued patents or pending patent applications;
- we might not have been the first to file patent applications for these inventions;
- others may independently develop similar or alternative technologies or duplicate any of our technologies;
- it is possible that our pending patent applications will not result in issued patents;
- our issued patents may not provide us with any competitive advantages, or may be held invalid or unenforceable as a result of legal challenges by third parties;
- we may not develop additional proprietary technologies that are patentable; or
- the patents of others may have an adverse effect on our business.

We also may rely on trade secrets to protect our technology, especially where we do not believe patent protection is appropriate or obtainable. However, trade secrets are difficult to protect. Although we use reasonable efforts to protect our trade secrets, our employees, consultants, contractors, outside scientific collaborators and other advisors may unintentionally or willfully disclose our information to competitors. Enforcing a claim that a third party illegally obtained and is using any of our trade secrets is expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the United States are sometimes less willing to protect trade secrets. Moreover, our competitors may independently develop equivalent knowledge, methods and know-how.

We rely on confidentiality agreements that, if breached, may be difficult to enforce and could have a material adverse effect on our business and competitive position.

Our policy is to enter agreements relating to the non-disclosure and non-use of confidential information with third parties, including our contractors, consultants, advisors and research collaborators, as well as agreements that purport to require the disclosure and assignment to us of the rights to the ideas, developments, discoveries and inventions of our employees and consultants while we employ them. However, these agreements can be difficult and costly to enforce. Moreover, to the extent that our contractors, consultants, advisors and research collaborators apply or independently develop intellectual property in connection with any of our projects, disputes may arise as to the proprietary rights to the intellectual property. If a dispute arises, a court may determine that the right belongs to a third party, and enforcement of our rights can be costly and unpredictable. In addition, we rely on trade secrets and proprietary know-how that we seek to protect in part by confidentiality agreements with our employees, contractors, consultants, advisors or others. Despite the protective measures we employ, we still face the risk that:

- These agreements may be breached;
- These agreements may not provide adequate remedies for the applicable type of breach; or
- Our trade secrets or proprietary know-how will otherwise become known.

Any breach of our confidentiality agreements or our failure to effectively enforce such agreements would have a material adverse effect on our business and competitive position.

We may incur substantial costs as a result of litigation or other proceedings relating to patent and other intellectual property rights and we may be unable to protect our rights to, or use, our technology.

If we or our partners choose to go to court to stop someone else from using the inventions claimed in our patents, that individual or company has the right to ask the court to rule that these patents are invalid and/or should not be enforced against that third party. These lawsuits are expensive and would consume time and other resources even if we were successful in stopping the infringement of these patents. In addition, there is a risk that the court will decide that these patents are not valid and that we do not have the right to stop the other party from using the inventions. There is also the risk that, even if the validity of these patents is upheld, the court will refuse to stop the other party on the ground that such other party's activities do not infringe our rights to these patents.

Furthermore, a third party may claim that we or our manufacturing or commercialization partners are using inventions covered by the third party's patent rights and may go to court to stop us from engaging in our normal operations and activities, including making or selling our product candidates. These lawsuits are costly and could affect our results of operations and divert the attention of managerial and technical personnel. There is a risk that a court would decide that we or our commercialization partners are infringing the third party's patents and would order us or our partners to stop the activities covered by the patents. In addition, there is a risk that a court will order us or our partners to pay the other party damages for having violated the other party's patents. We have agreed to indemnify certain of our commercial partners against certain patent infringement claims brought by third parties. The biotechnology industry has produced a proliferation of patents, and it is not always clear to industry participants, including us, which patents cover various types of products or methods of use. The coverage of patents is subject to interpretation by the courts, and the interpretation is not always uniform. If we are sued for patent infringement, we would need to demonstrate that our products or methods of use either do not infringe the patent claims of the relevant patent and/or that the patent claims are invalid, and we may not be able to do this. Proving invalidity, in particular, is difficult since it requires a showing of clear and convincing evidence to overcome the presumption of validity enjoyed by issued patents.

Because some patent applications in the United States may be maintained in secrecy until the patents are issued, because patent applications in the United States and many foreign jurisdictions are typically not published until eighteen months after filing and because publications in the scientific literature often lag behind actual discoveries, we cannot be certain that others have not filed patent applications for technology covered by our issued patents or our pending applications, or that we were the first to invent the technology. Our competitors may have filed, and may in the future file, patent applications covering technology similar to ours. Any such patent application may have priority over our patent applications or patents, which could further require us to obtain rights to issued patents by others covering such technologies. If another party has filed a U.S. patent application on inventions similar to ours, we may have to participate in an interference proceeding declared by the U.S. Patent and Trademark Office to determine priority of invention in the United States. The costs of these proceedings could be substantial, and it is possible that such efforts would be unsuccessful if, unbeknownst to us, the other party had independently arrived at the same or similar invention prior to our own invention, resulting in a loss of our U.S. patent position with respect to such inventions.

Some of our competitors may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. In addition, any uncertainties resulting from the initiation and continuation of any litigation could have a material adverse effect on our ability to raise the funds necessary to continue our operations.

Our collaborations with outside scientists and consultants may be subject to restriction and change.

We work with chemists, biologists and other scientists at academic and other institutions, and consultants who assist us in our research, development, regulatory and commercial efforts, including the members of our scientific advisory board. These scientists and consultants have provided, and we expect that they will continue to provide, valuable advice on our programs. These scientists and consultants are not our employees, may have other commitments that would limit their future availability to us and typically will not enter into non-compete agreements with us. If a conflict of interest arises between their work for us and their work for another entity, we may lose their services. In addition, we will be unable to prevent them from establishing competing businesses or developing competing products. For example, if a key scientist acting as a principal investigator in any of our clinical trials identifies a potential product or compound that is more scientifically interesting to his or her professional interests, his or her availability to remain involved in our clinical trials could be restricted or eliminated.

Under current law, we may not be able to enforce all employees' covenants not to compete and therefore may be unable to prevent our competitors from benefiting from the expertise of some of our former employees.

We have entered into non-competition agreements with certain of our employees. These agreements prohibit our employees, if they cease working for us, from competing directly with us or working for our competitors for a limited period. Under current law, we may be unable to enforce these agreements against certain of our employees and it may be difficult for us to restrict our competitors from gaining the expertise our former employees gained while working for us. If we cannot enforce our employees' non-compete agreements, we may be unable to prevent our competitors from benefiting from the expertise of our former employees.

We may infringe or be alleged to infringe intellectual property rights of third parties.

Our products or product candidates may infringe on, or be accused of infringing on, one or more claims of an issued patent or may fall within the scope of one or more claims in a published patent application that may be subsequently issued and to which we do not hold a license or other rights. Third parties may own or control these patents or patent applications in the United States and abroad. These third parties could bring claims against us or our collaborators that would cause us to incur substantial expenses and, if successful against us, could cause us to pay substantial damages. Further, if a patent infringement suit were brought against us or our collaborators, we or they could be forced to stop or delay research, development, manufacturing or sales of the product or product candidate that is the subject of the suit.

If we are found to infringe the patent rights of a third party, or in order to avoid potential claims, we or our collaborators may choose or be required to seek a license from a third party and be required to pay license fees or royalties or both. These licenses may not be available on acceptable terms, or at all. Even if we or our collaborators were able to obtain a license, the rights may be nonexclusive, which could result in our competitors gaining access to the same intellectual property. Ultimately, we could be prevented from commercializing a product, or be forced to cease some aspect of our business operations, if, as a result of actual or threatened patent infringement claims, we or our collaborators are unable to enter into licenses on acceptable terms.

There have been substantial litigation and other proceedings regarding patent and other intellectual property rights in the pharmaceutical and biotechnology industries. In addition to infringement claims against us, we may become a party to other patent litigation and other proceedings, including interference proceedings declared by the United States Patent and Trademark Office and opposition proceedings in the European Patent Office, regarding intellectual property rights with respect to our products. Our products, after commercial launch, may become subject to Paragraph IV certification under the Hatch-Waxman Act, thus forcing us to initiate infringement proceedings against such third-party filers. The cost to us of any patent litigation or other proceeding, even if resolved in our favor, could be substantial. Some of our competitors may be able to sustain the costs of such litigation or proceedings more effectively than we can because of their substantially greater financial resources. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could have a material adverse effect on our ability to compete in the marketplace. Patent litigation and other proceedings may also absorb significant management time.

Many of our employees were previously employed at universities or other biotechnology or pharmaceutical companies, including our competitors or potential competitors. We try to ensure that our employees do not use the proprietary information or know-how of others in their work for us. We may, however, be subject to claims that we or these employees have inadvertently or otherwise used or disclosed intellectual property, trade secrets or other proprietary information of any such employee's former employer. Litigation may be necessary to defend against these claims and, even if we are successful in defending ourselves, could result in substantial costs to us or be distracting to our management. If we fail to defend any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel.

Product liability lawsuits against us could cause us to incur substantial liabilities, limit sales of our existing products and limit commercialization of any products that we may develop.

Our business exposes us to the risk of product liability claims that are inherent in the manufacturing, distribution, and sale of biotechnology products. We face an inherent risk of product liability exposure related to the testing of our product candidates in human clinical trials and an even greater risk when we commercially sell any products. If we cannot successfully defend ourselves against claims that our product candidates or products caused injuries, we could incur substantial liabilities. Regardless of merit or eventual outcome, liability claims may result in:

- Decreased demand for our products and any product candidates that we may develop;
- Injury to our reputation;
- Withdrawal of clinical trial participants;
- Costs to defend the related litigation;
- Substantial monetary awards to trial participants or patients;
- Loss of revenue; and
- The inability to commercialize any products that we may develop.

We currently maintain limited product liability insurance coverage for our clinical trials in the total amount of $3 million. However, our profitability will be adversely affected by a successful product liability claim in excess of our insurance coverage. There can be no assurance that product liability insurance will be available in the future or be available on reasonable terms.

Risks Related to Owning Our Common Stock

If we cannot meet the NASDAQ Capital Market continued listing requirements, our common stock may be delisted which could have an adverse impact on the liquidity and market price of our common stock.

While our common stock is currently listed on the NASDAQ Capital Market, or NASDAQ, there can be no assurance it will continue to be listed in the future. Continued listing of a security on NASDAQ is conditioned upon compliance with various continued listing standards, which require, among other things, that for 30 consecutive trading days (i) the closing minimum bid price for our listed securities not be lower than $1.00 per share and (ii) our market capitalization not be lower than $35 million. The closing bid price for our shares fell below $1.00 per share on August 21, 2012 and our market capitalization has been less than $35 million since August 8, 2012.

On September 20, 2012 we received a deficiency notice from NASDAQ due to our market capitalization falling below $35 million for 30 consecutive days. We were required to regain compliance with this continued listing standard before March 19, 2013. On October 3, 2012 we received a deficiency notice from NASDAQ due to the closing bid price for our shares falling below $1.00 per share for 30 consecutive days. We were required to regain compliance with this continued listing standard before April 1, 2013.

However, we were not able to regain compliance with the market capitalization requirement by March 19, 2013. As a result NASDAQ notified us by letter dated March 20, 2013 of the Staff's decision to delist our securities from NASDAQ. We appealed the Staff's determination by requesting a hearing, or the Hearing, before a NASDAQ Hearings Panel, or the Panel, to seek continued listing pending our return to compliance with the minimum market value requirement under Rule 5550(b)(2). In addition, we were not able to regain compliance with the minimum bid price listing standard by April 1, 2013. As a result NASDAQ notified us by letter dated April 4, 2013 that our failure to comply with Rule 5550(a)(2) serves as an additional basis to delist our securities from The NASDAQ Capital Market, and that the Panel, in connection with the Hearing, would consider this matter in rendering a determination regarding our continued listing on The NASDAQ Capital Market.

On May 15, 2013, we received notice from the Panel that the Panel has determined to grant our request for continued listing on The NASDAQ Capital Market pursuant to an extension through June 3, 2013 to evidence compliance with the minimum $1.00 bid price requirement, as set forth in NASDAQ Listing Rule 5550(a), and through July 31, 2013 to evidence compliance with the alternate minimum $2.5 million stockholders' equity requirement, as set forth in NASDAQ Listing Rule 5550(b), for continued listing on The NASDAQ Capital Market. As of June 3, 2013, we have regained compliance with the minimum $1.00 bid price requirement, due in part to our 20-to-1 reverse stock split effected on May 10, 2013. We are working to timely evidence compliance with the additional terms of the Panel's decision; however, there can be no assurance that we will be able to do so. Delisting from NASDAQ would negatively impact us and our stockholders by, among other things, reducing the liquidity and market price of our common stock and adversely affecting our ability to raise additional capital.

Our share price has been volatile and may continue to be volatile which may subject us to securities class action litigation in the future.

The market price of shares of our common stock has been, and may be in the future, subject to wide fluctuations in response to many risk factors listed in this section, and others beyond our control, including:

- actual or anticipated fluctuations in our financial condition and operating results;
- status and/or results of our clinical trials;
- status of ongoing litigation

- results of clinical trials of our competitors' products;
- regulatory actions with respect to our products or our competitors' products;
- actions and decisions by our collaborators or partners;
- actual or anticipated changes in our growth rate relative to our competitors;
- actual or anticipated fluctuations in our competitors' operating results or changes in their growth rate;
- competition from existing products or new products that may emerge;
- issuance of new or updated research or reports by securities analysts;
- fluctuations in the valuation of companies perceived by investors to be comparable to us;
- share price and volume fluctuations attributable to inconsistent trading volume levels of our shares;
- market conditions for biopharmaceutical stocks in general;
- status of our search and selection of future management and leadership; and
- general economic and market conditions.

On April 30, 2013 the closing price of our common stock was $5.00 as compared with $35.60 as of April 30, 2012. During the twelve months ended April 30, 2013, the lowest closing price of our common stock was $3.70 and the highest closing price was $41.40, all as adjusted for the 1-for-20 reverse stock split effective on May 10, 2013.

Some companies that have had volatile market prices for their securities have had securities class action lawsuits filed against them. Such lawsuits, should they be filed against us in the future, could result in substantial costs and a diversion of management's attention and resources. This could have a material adverse effect on our business, results of operations and financial condition.

We are likely to attempt to raise additional capital through issuances of debt or equity securities, which may cause our stock price to decline, dilute the ownership interests of our existing stockholders, and/or limit our financial flexibility.

Historically we have financed our operations through the issuance of equity securities and debt financings, and we expect to continue to do so for the foreseeable future. As of June 20, 2013, we believe we have sufficient capital on hand to continue to fund operations through July 31, 2013. To the extent that we raise additional funds by issuing equity securities, our stockholders may experience significant dilution of their ownership interests. Debt financing, if available, may involve restrictive covenants that limit our financial flexibility or otherwise restrict our ability to pursue our business strategies. Additionally, if we issue shares of common stock, or securities convertible or exchangeable for common stock, the market price of our existing common stock may decline. There can be no assurance that we will be successful in obtaining any additional capital resources in a timely manner, on favorable terms, or at all.

We have issued in the past, and may issue in the future, substantial amounts of instruments that are convertible into or exercisable for common stock, and our existing stockholders may face substantial dilution if such instruments are converted or exercised.

As of June 20, 2013, we had outstanding convertible notes, warrants, options, securities purchase agreements, and other instruments that are convertible or exercisable into an aggregate of approximately 1,025,921 shares of our common stock, which, if converted or exercised, would represent approximately 49% of our current outstanding common stock. These instruments carry a wide variety of different terms and prices, and there can be no assurance as to when or whether conversions or exercises of these instruments may occur. If all or any substantial portion of these instruments are converted or exercised, our existing stockholders may face substantial dilution of their ownership interests.

Certain investors may be able to exercise significant influence over us.

As of June 20, 2013, SPC 1 Vatea Segregated Portfolio, or Vatea Fund, held 189,026 shares of our common stock, representing 9% of our outstanding common stock. As of June 20, 2013, JP SPC 3 obo OXBT FUND, SP, or OXBT Fund, held notes and warrants that are convertible or exercisable into an aggregate of up to 248,426 shares of our common stock, which, if converted or exercised, would represent 12% of our current outstanding common stock. Mr. Gregory Pepin, one of our directors, is the investment manager of both Vatea Fund and OXBT Fund. Accordingly, these parties, either individually or as part of a group, may have a strong ability to influence our business, policies and affairs. We cannot be certain that their interests will be consistent with the interests of other holders of our common stock.

Risks Relating to Employee Matters and Managing Growth

We may need to increase the size of our company, and we may experience difficulties in managing growth.

As of April 30, 2013, we had 12 full-time employees. We may need to expand our managerial, operational, administrative, financial and other resources in order to manage and fund our operations and clinical trials, continue our development activities and commercialize our product candidates. To support this growth, we may hire additional employees within the next 12 months. Our management, personnel, systems and facilities currently in place may not be adequate to support this future growth. Our need to effectively manage our operations, growth and various projects requires that we continue to improve our operational, financial and management controls, reporting systems and procedures.

We may not be able to attract or retain qualified management and scientific personnel in the future. If we are unable to attract and retain necessary personnel to accomplish our business objectives, we may experience constraints that will significantly impede our achievement of our development objectives, our ability to raise additional capital and our ability to implement our business strategy.

In addition, we have scientific and clinical advisors who assist us in our product development and clinical strategies. These advisors are not our employees and may have commitments to, or consulting or advisory contracts with, other entities that may limit their availability to us, or may have arrangements with other companies to assist in the development of products that may compete with ours. Because our business depends on certain key personnel and advisors, the loss of such personnel and advisors could weaken our management team and we may experience difficulty in attracting and retaining qualified personnel and advisors.

ITEM 1B—UNRESOLVED STAFF COMMENTS

Not applicable.

ITEM 2—PROPERTIES

We own no real property. We lease our principal executive office at ONE Copley Parkway, Suite 490, Morrisville, North Carolina 27560. The current rent is approximately $9,030 per month for the facility.

ITEM 3—LEGAL PROCEEDINGS

The Company is subject to litigation in the normal course of business, none of which management believes will have a material adverse effect on the Company's financial statements.

On August 30, 2011, Tenor Opportunity Master Fund Ltd., Aria Opportunity Fund, Ltd., and Parsoon Opportunity Fund, Ltd (collectively, "Tenor") filed a lawsuit in the United States District Court for the Southern District of New York alleging that a right of first offer held by Tenor was breached in connection with our June 2011 financing. The complaint sought compensatory damages, attorneys' fees and costs. Discovery was completed and motions for summary judgment from both sides were filed, Plaintiffs filed on the matter of breach and we filed on the matter of damages. On July 11, 2012 the court entered an order on both summary judgment motions. The court found in favor of Plaintiff's motion, holding that we did breach the agreement. The court did not find in favor of our motion regarding damages. The matter was then set to move to trial for a jury to determine what, if any, damages Plaintiff's suffered from our breach of the agreement. The trial was scheduled to begin on October, 10, 2012. On October 3, 2012 the court granted a motion from Tenor to continue the trial until March 7, 2013.

However, on February 19, 2013, we and Tenor reached a tentative oral settlement of this litigation, and executed a written settlement agreement, effective March 14, 2013, under which the litigation was dismissed with prejudice. The settlement agreement provides that the parties will settle the matter for our payment of $600,000 in cash, plus interest accrued thereon from the date of the executed settlement agreement at the rate of fifteen percent (15%) per year, payable in six quarterly installments commencing on the date the parties executed the written settlement agreement. The settlement agreement also provides that upon the Company completing financings in certain amounts, if the settlement amount is not fully paid at such time, a portion of the settlement payment schedule will be accelerated.

ITEM 4— MINE SAFETY DISCLOSURES

Not applicable

PART II

ITEM 5—MARKET FOR THE REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Price and Number of Stockholders

Our common stock is listed on the NASDAQ Capital Market under the symbol "OXBT." The following table sets forth, for the past two fiscal years, the range of high and low sales prices in each fiscal quarter for our common stock, all as adjusted for the 1-for-20 reverse stock split effective on May 10, 2013.

Year-Ended April 30, 2012	High	Low
First Quarter	$ 71.00	$ 34.20
Second Quarter	$ 61.60	$ 37.00
Third Quarter	$ 47.20	$ 26.00
Fourth Quarter	$ 64.00	$ 35.60

Year-Ended April 30, 2013	High	Low
First Quarter	$ 45.00	$ 21.40
Second Quarter	$ 24.20	$ 10.40
Third Quarter	$ 22.00	$ 10.40
Fourth Quarter	$ 15.80	$ 3.60

As of June 20, 2013, there were 1,527 holders of record of our common stock. In addition, we believe that a significant number of beneficial owners of our common stock hold their shares in nominee or in "street name" accounts through brokers. On June 20, 2013, the last sale price reported on the NASDAQ Capital Market for our common stock was $3.06 per share.

Dividend Policy

Since our inception, we have not paid dividends on our common stock. We intend to retain any earnings for use in our business activities, so it is not expected that any dividends on our common stock will be declared and paid in the foreseeable future.

Repurchases of Common Stock

The following table lists all repurchases during the fourth quarter of fiscal 2013 of any of our securities registered under Section 12 of the Exchange Act by or on behalf of us or any affiliated purchaser.

Issuer Purchases of Equity Securities

Period	Total Number of Shares Purchased (1)	Average Price Paid per Share (2)	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that August Yet Be Purchased Under the Plans or Programs
February 1, 2013 - February 28, 2013	20	$ 13.60	-	$ -
March 1, 2013 - March 31, 2013	20	5.60	-	-
April 1, 2013 - April 30, 2013	20	5.00	-	-
Total	60	$ 8.07	-	$ -

(1) Represents shares repurchased in connection with tax withholding obligations under the 1999 Amended Stock Plan.

(2) Represents the average price paid per share for the shares repurchased in connection with tax withholding obligations under the 1999 Amended Stock Plan.

Unregistered Sales of Equity Securities

On March 28, 2013 we issued 4,075 shares of unregistered common stock as payment of $183,750 of interest due on our outstanding convertible notes.

All of the securities described above were issued in reliance on the exemption from registration set forth in Section 4(2) of the Securities Act.

ITEM 6—SELECTED FINANCIAL DATA

Not Applicable.

ITEM 7—MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis together with the financial statements and the related notes to those statements included in "Item 8 – Financial Statements and Supplementary Data." This discussion contains forward-looking statements that involve risks and uncertainties. As a result of many factors, such as those set forth under "Risk Factors" and elsewhere in this Annual Report on Form 10-K, our actual results may differ materially from those anticipated in these forward-looking statements.

Results of operations- Comparison of the year ended April 30, 2013 and 2012

Revenue

Product Revenue and Gross Profit

We generate revenue through the sale of Dermacyte® through, distribution agreements, on-line retailers and direct sales to physician and medical spa facilities. Product revenue and percentage changes for the year ended April 30, 2013 and 2012, respectively, are as follows:

	Year ended April 30,		Increase/ (Decrease)	% Increase/ (Decrease)
	2013	2012		
Product revenue	$ 92,683	$ 100,519	$ (7,836)	(8) %
Cost of sales	43,111	51,253	(8,142)	(16) %
Gross profit	$ 49,572	$ 49,266	$ 306	1%

The decrease in product revenue for the year ended April 30, 2013 was primarily due to the elimination of our internal sales force and the suspension of our direct marketing and advertising programs.

Gross profit as a percentage of revenue was 53% and 49% for the years ended April 30, 2013 and 2012, respectively. The increase for the year ended April 30, 2013 was due to changes in product mix sold to our direct sales customers.

Government Grant Revenue

We earn revenues through a cost-reimbursement grant sponsored by the United States Army, or Grant Revenue. Grant Revenue is recognized as milestones under the grant program are achieved. Grant Revenue is earned through reimbursements for the direct costs of labor, travel, and supplies, as well as the pass-through costs of subcontracts with third-party CROs.

	Year ended April 30,		Increase/ (Decrease)	% Increase/ (Decrease)
	2013	2012		
Government grant revenue	$ 1,141,356	$ 314,515	$ 826,841	263%

For the year ended April 30, 2013, we recorded an increase of approximately $827,000 in revenue under the grant program as compared to the prior year. This increase is due to the progress of the underlying studies and the achievement of contractual milestones under the grant.

In addition to the revenue earned, we have recorded approximately $160,000 in deferred revenue associated with the grant. Deferred revenue under the grant represents pass-through costs that have been reimbursed in advance of performing the studies underlying the subcontracts.

Marketing and Sales Expenses

Marketing and sales expenses consisted primarily of personnel-related costs, including salaries, commissions, and the costs of marketing programs aimed at increasing revenue, such as advertising, trade shows, public relations and other market development programs. During the current year, we suspended our direct marketing and development programs and entered into an exclusive license and distribution agreement for the sales of our cosmetics line. Marketing and sales expenses and percentage changes for the year ended April 30, 2013 and 2012 , respectively, are as follows:

	Year ended April 30,		Increase/ (Decrease)	% Increase/ (Decrease)
	2013	2012		
Marketing and sales expense	$ 108,165	$ 393,922	$ (285,757)	(73) %

The decrease in marketing and sales expenses for the year ended April 30, 2013 compared to the prior year was driven primarily by a decrease in the costs incurred for compensation and direct marketing.

- We reduced compensation costs related to marketing and selling the cosmetic topical product line Dermacyte by approximately $160,000 compared to the prior year. These costs include salaries, commissions, and employee benefits.

- Costs related to direct marketing and advertising, including travel and sample expense, decreased by approximately $125,000 compared to the prior year. These costs include attendance at trade shows and conferences, fees paid to a third party public relations firm, the costs of product samples distributed to potential customers, and the costs of direct print and online advertisements.

General and Administrative Expenses

General and administrative expenses consist primarily of compensation for executive, finance, legal and administrative personnel, including stock-based compensation. Other general and administrative expenses include facility costs not otherwise included in research and development expenses, legal and accounting services, other professional services, and consulting fees. General and administrative expenses and percentage changes for the year ended April 30, 2013 and 2012, respectively, are as follows:

	Year ended April 30,		Increase/ (Decrease)	% Increase/ (Decrease)
	2013	2012		
Legal and professional fees	$ 2,005,311	$ 3,063,595	$ (1,058,284)	(35) %
Personnel costs	1,490,752	1,747,055	(256,303)	(15) %
Facilities	167,693	284,788	(117,095)	(41) %
Depreciation and amortization	111,012	165,581	(54,569)	(33) %
Other costs	(206,788)	436,865	(643,653)	(147) %

Legal and professional fees:

Legal and professional fees include the costs of external audit and tax preparation fees, external legal counsel, banking fees, investor relations and NASDAQ listing fees, payments to our board of directors and recruiting and other consulting fees incurred. Legal and professional fees decreased approximately $1.1 million for the year ended April 30, 2013 compared to the prior year. This decrease was primarily due to decreases of approximately $680,000 in legal fees, $200,000 in consulting fees, $175,000 in costs related to our board of directors and $40,000 in auditing and tax preparation costs; partially offset by an increase of approximately $36,000 in costs incurred for investor relations and exchange listing fees.

- The decrease in legal expenses was due to a reduction in the costs incurred for securities matters and SEC filings, general employment matters, intellectual property and our SIX listing, as well as proceeds received from our previous insurance carrier related to the Tenor litigation and fees associated with the closing of the Series A Preferred Stock offering in the prior year; partially offset by the costs incurred to defend and the accrual for the settlement of the Tenor matter described in Note J to the financial statements.

- The decrease in consulting fees was due to a reduction in executive recruiting fees and the elimination of other executive consulting expenses in the current period.

- The decrease in fees paid to our directors was due to approximately $200,000 in severance costs related to our former President's resignation from our Board of Directors in the prior year, partially offset by an increase of $44,000 in fees and travel costs associated with directors' retainers and meetings

- The decrease in accounting and filing fees was due primarily to a reduction in audit fees associated with the closing of the Series A Preferred Stock offering and other filings made with the SEC in the prior year.

- The increase in investor relations and listing fees was due primarily to an increase of approximately $60,000 in fees incurred for public and investor relations services, partially offset by approximately $24,000 in costs related to our SIX listing in the prior year.

Personnel costs:

Personnel costs decreased approximately $256,000 for the year ended April 30, 2013 compared to the prior year. The decrease was due primarily to reductions in executive and management headcount and the recorded cost of outstanding stock options and restricted stock.

Facilities:

Facilities include costs paid for rent and utilities at our corporate headquarters in North Carolina, the allocation of lease costs not otherwise included in Research and Development expenses, and the costs incurred for third party Information Technology support services. Facilities expense decreased approximately $117,000 due to reductions of $87,000 in allocated lease costs related to the closure of our California facility, and $30,000 in costs for utilities and fees paid to outside service providers for network and computer maintenance services in the prior year.

Depreciation and Amortization:

Depreciation and amortization expense decreased approximately $55,000 for the year ended April 30, 2013 compared to the prior year due primarily to the disposal of fixed assets related to the closure of the California facility and assets becoming fully depreciated in the current period .

Other costs:

Other costs include costs incurred for travel, supplies, insurance and other miscellaneous charges. The $644,000 reduction in other costs was due primarily to a $533,000 reduction in our estimate of the accrued liability related to potential 409A violations, a $60,000 reduction in travel costs and an overall decrease of $86,000 in administrative and office expenses as a result of headcount reductions, partially offset by an increase of $35,000 in insurance premiums as compared to the prior year.

Research and Development Expenses

Research and development expenses include, but are not limited to, (i) expenses incurred under agreements with CROs and investigative sites, which conduct our clinical trials and a substantial portion of our pre-clinical studies; (ii) the cost of manufacturing and supplying clinical trial materials; (iii) payments to contract service organizations, as well as consultants; (iv) employee-related expenses, which include salaries and benefits; and (v) facilities, depreciation and other allocated expenses, which include direct and allocated expenses for rent and maintenance of facilities and equipment, depreciation of leasehold improvements, equipment, laboratory and other supplies. All research and development expenses are expensed as incurred. Research and development expenses and percentage changes for the years ended April 30, 2013 and 2012 , respectively, are as follows:

	Year ended April 30,		Increase/ (Decrease)	% Increase/ (Decrease)
	2013	2012		
Clinical and preclinical development	$ 1,569,594	$ 814,646	$ 754,948	93%
Personnel costs	637,685	947,374	(309,689)	(33) %
Consulting	117,211	382,374	(265,163)	(69) %
Other costs	32,652	95,900	(63,248)	(66) %
Depreciation	42,968	74,589	(31,621)	(42) %
Facilities	55,706	147,755	(92,049)	(62) %

Clinical and preclinical development:

Clinical and preclinical development costs include the costs associated with our pre-clinical safety studies and cGMP, development for Oxycyte, costs incurred to resume our Phase II-b clinical trials, and development costs for Dermacyte. The increase of approximately $755,000 in clinical and preclinical development costs for the year ended April 30, 2013 as compared to the prior year was primarily due to increases in costs associated with our TBI clinical trials and other pre-clinical studies; partially offset by decreases in the costs incurred for the manufacturing and quality assurance for Oxycyte and a reduction in costs associated with Dermacyte development.

- We incurred an increase of approximately $592,000 in pre-clinical study costs. These costs are the result of CRO fees for the completion of milestones under the Grant-funded preclinical program to assess the safety of Oxycyte for the treatment of patients with TBI.
- We incurred an increase of approximately $522,000 in clinical study costs for our Phase II-b clinical trials for TBI. These costs include the manufacture of clinical drug material and CRO fees incurred to initiate sites and resume enrollment in the second cohort.
- We decreased Oxycyte development costs by approximately $159,000 due primarily to the costs to develop cGMP supply and manufacturing capabilities and validated release methods for our clinical drug product incurred in the prior year that were not incurred in the year ended April 30, 2013.
- We decreased Dermacyte development costs by approximately $200,000 due primarily to the costs to develop additional cosmetic formulations and to design and conduct proof of concept preclinical trials in prior year that were not incurred in the year ended April 30, 2013.

Personnel costs:

Personnel costs decreased approximately $310,000 for the year ended April 30, 2013 compared to the prior year, primarily due to headcount reductions related to the closure of our California lab facility during the current period and the resignation of our Chief Medical Officer in the prior year.

Consulting fees:

Consulting fees decreased approximately $265,000 for the year ended April 30, 2013 compared to the prior year, primarily due to charges under the consulting and separation agreement for our former President and Chief Operating Officer that were not incurred in the year ended April 30, 2013; partially offset by an increase in costs paid to regulatory consultants.

Other costs:

Other costs decreased approximately $63,000 for the year ended April 30, 2013 as compared to the prior year, due primarily to a decreases of $22,000 in travel cost and $40,000 in the cost of lab supplies related to the closure our California facility.

Depreciation:

Depreciation expense decreased approximately $32,000 for the year ended April 30, 2013 compared to the prior year due to the disposal of fixed assets related to the closure of our California facility.

Facilities:

Facilities expense decreased approximately $92,000 for the year ended April 30, 2013 compared to the prior year primarily due to the closure of our California facility.

Restructuring expense

	Year ended April 30,		Increase/ (Decrease)	% Increase/ (Decrease)
	2013	2012		
Restructuring expense	$ 220,715	$ -	$ 220,715	—%

During the year ended April 30, 2013, the Company recorded one-time charges of approximately $54,000 for severance and benefits related charges, $135,000 for net future lease obligations and $31,000 for other exit costs related to the closure of our California facility.

Interest expense

Interest expense includes the interest payments due under our long-term debt, amortization of debt issuance costs and accretion of discounts recorded against our outstanding convertible notes. Interest expense also includes dividends and fair-value adjustments to the carrying value of our Series A Convertible Preferred Stock. Interest expense and percentage changes for the years ended April 30, 2013 and 2012, respectively, are as follows:

	Year ended April 30,		Increase/ (Decrease)	% Increase/ (Decrease)
	2013	2012		
Interest expense	$ 4,238,456	$ 7,412,054	$ (3,173,598)	(43) %

Long-term notes payable:

Interest expense for our long-term notes payable was $0 and approximately $2.8 million for the years ended April 30, 2013 and 2012, respectively. These notes were repaid in full in November 2011.

Convertible notes payable:

Interest expense on our outstanding convertible notes was approximately $2.5 million and $2.1 million for the years ended April 30, 2013 and 2012 , respectively. The recorded interest for the year ended April 30, 2013 was comprised of approximately $738,000 for quarterly interest payments, $1,633,000 for amortization of debt discounts and $129,000 for amortization of debt issue costs.

Series A Convertible Preferred Stock:

Interest expense on our outstanding Series A Convertible Preferred Stock was approximately $1.7 million and $2.5 million for the years ended April 30, 2013 and 2012, respectively. The recorded interest for the year ended April 30, 2013 was comprised of approximately $656,000 for the calculated fair value of the warrants issued with the Series A Convertible Preferred Stock and $763,000 for the excess of the fair-value of the shares issued upon conversion over the fair value of the Series A Convertible Preferred Stock. The Series A Convertible Preferred Stock matured on January 31, 2013 and all of the outstanding shares were redeemed by conversion into common stock at maturity.

Preferred Stock Dividends:

Interest expense recorded for the payment of dividends on the Series A Convertible Preferred Stock was approximately $310,000 and $103,000 for the years ended April 30, 2013 and 2012, respectively.

Other income and expense

Other income and expense includes non-operating income and expense items not otherwise recorded in our statement of operations. These items include, but are not limited to, revenue earned under sublease agreements for our California facility, prior to exiting the facility on September 1, 2012, recognized gains and losses on foreign currency translations, interest income earned and fixed asset disposals. Other (income) expense for the year ended April 30, 2013 and 2012, respectively, is as follows:

	Year ended April 30,		Increase/ (Decrease)
	2013	2012	
Other (income) expense, net	$ (11,683)	$ 80,159	$ (91,842)

Other expense decreased approximately $92,000 for the year ended April 30, 2013 compared to the prior year, primarily due to the write off of receivables from Glucometrics, Inc, or Glucometrics. Glucometrics previously held license rights for the use of our patents related to glucose monitoring technology. The receivable was determined to be uncollectible during the third quarter of fiscal 2012 and we recognized approximately $100,000 as a non-operating expense.

During the year ended April 30, 2013 compared to the prior year, we recorded income from sublease agreements and interest of approximately $20,000 and $29,000, respectively. We recorded losses of approximately $8,000 in each of the years ended April 30, 2013 and 2012 from the disposal of fixed assets and recognized losses on foreign currency translations.

Liquidity, capital resources and plan of operation

We have incurred losses since our inception and as of April 30, 2013 we had an accumulated deficit of approximately $117 million. We will continue to incur losses until we generate sufficient revenue to offset our expenses, and we anticipate that we will continue to incur net losses for at least the next several years. We expect to incur increased expenses related to our development and potential commercialization of Oxycyte and other product candidates and, as a result, we will need to generate significant net product sales, royalty and other revenues to achieve profitability.

Liquidity

We have financed our operations since September 1990 through the issuance of debt and equity securities and loans from stockholders. We had $1,842,251 and $2,631,032 total current assets and working capital of $(67,326) and $(495,838) as of April 30, 2013 and April 30, 2012, respectively. Our practice is to invest excess cash, where available, in short-term money market investment instruments.

Based on our working capital at April 30, 2013 we believe we have sufficient capital on hand to continue to fund operations through July 31, 2013.

Clinical and Preclinical Product Development

We are in the preclinical and clinical trial stages in the development of our product candidates. We are currently conducting Phase II-b clinical trials for the use of Oxycyte in the treatment of severe traumatic brain injury. Even if we are successful with our Phase II-b study, we must then conduct a Phase III clinical study and, if that is successful, file with the FDA and obtain approval of a Biologics License Application to begin commercial distribution, all of which will take more time and funding to complete. Our other product candidates must undergo further development and testing prior to submission to the FDA for approval to initiate clinical trials, which also requires additional funding. Management is actively pursuing private and institutional financing, as well as strategic alliances and/or joint venture agreements to obtain the necessary additional financing and reduce the cost burden related to the development and commercialization of our products though we can give no assurance that any such initiative will be successful. We expect our primary focus will be on funding the continued testing of Oxycyte, since this product is the furthest along in the regulatory review process. Our ability to continue to pursue testing and development of our products beyond July 31, 2013 depends on obtaining license income or outside financial resources. There is no assurance that we will obtain any license agreement or outside financing or that we will otherwise succeed in obtaining the necessary resources.

Series A Convertible Preferred Stock Offering

In December 2011, we entered into a Securities Purchase Agreement with certain institutional investors that provided for the sale and issuance of units ("Units") consisting of Series A Convertible Preferred Stock and warrants in aggregate amount of up to $7.5 million in two installments (the "2011 Offering"). The first installment of $3.5 million closed on December 12, 2011, and the second installment of $4.0 million was scheduled to have occurred in June 2012, subject to certain closing conditions. Because certain closing conditions for the second installment were not satisfied, on June 14, 2012, we entered into an Amendment Agreement with each of the institutional investors that, among other things, divided the remaining installment into two installments, the first additional installment to occur in June 2012 in the amount of $2.5 million and the second additional installment to occur in September 2012 in the amount of $1.5 million.

On June 15, 2012, we sold 2,500 Units for net proceeds of approximately $2.3 million upon the closing of the first additional installment. The remainder of the 2011 Offering, which may be up to $1.5 million, was scheduled to be completed in an additional closing in September 2012. However, as our stock was trading at a level below the minimum price, the additional closing did not occur.

Series B Convertible Preferred Stock Offering

On February 22, 2013, the Company entered into a Securities Purchase Agreement (the "Purchase Agreement") with an institutional investor (the "Investor") providing for the issuance and sale by the Company (the "Offering") of $1.6 million of shares of the Company's Series B-1 convertible preferred stock (the "Series B-1 Stock") and $0.5 million of shares of the Company's Series B-2 convertible preferred stock (the "Series B-2 Stock" and, together with the Series B-1 Stock, the "Series B Preferred Stock") which are convertible into a combined total of 420,000 shares of common stock (the "Conversion Shares"). In connection with the purchase of shares of Series B Preferred Stock in the Offering, the Investor will receive warrants to purchase a number of shares of common stock equal to 150% of the number of Conversion Shares at an exercise price equal to $10.00 (the "Warrants"). Each Warrant was immediately exercisable upon issuance, with one-half exercisable for six years and the other half exercisable for two years.

Pursuant to the above agreement, on February 27, 2013, the Company sold 2,100 units for net proceeds of approximately $1.9 million. Each unit sold consisted of (i) one share of the Company's Series B Preferred Stock and (ii) a Warrant representing the right to purchase 6,000 shares of Common Stock at a price of $1,000 per unit, less issuance costs. The shares of Series B Preferred Stock were immediately convertible and the Warrants were immediately exercisable upon issuance.

Cash Flows

The following table shows a summary of our cash flows for the periods indicated:

	For the year ended December,	
	2013	2012
Net cash used in operating activities	$ (4,921,283)	$ (8,278,366)
Net cash used in investing activities	(147,987)	(261,146)
Net cash provided by financing activities	3,972,926	9,467,440

Net cash used in operating activities. Net cash used in operating activities was approximately $4.9 million for the year ended April 30, 2013 compared to net cash used in operating activities of $8.3 million for the year ended April 30, 2012. The decrease in cash used for operating activities compared to the prior year was due primarily to a decrease in selling, general and administrative expenses of approximately $2.4 million and an increase of approximately $800,000 in revenue earned under our government grant.

Net cash used in investing activities. Net cash used in investing activities was $147,987 for the year ended April 30, 2013 compared to net cash used in investing activities of $261,146 for the year ended April 30, 2012. The decrease in cash used for investing activities was primarily due to a reduction in capitalized legal fees incurred for filing and maintaining our patent portfolio.

Net cash provided by financing activities. Net cash provided by financing activities was $4.0 million for the year ended April 30, 2013 compared to net cash provided by financing activities of $9.5 million for the year ended April 30, 2012.

Net cash provided by financing activities for the year ended April 30, 2013 was due primarily to net proceeds of approximately $4.4 million received from the issuance of Series A and Series B convertible preferred stock partially offset by payments of approximately $400,000 under the Warrant Exchange Agreements.

Net cash provided by financing activities for the year ended April 30, 2012 was due primarily to net proceeds of approximately $3.5 million received from the issuance of Series A convertible preferred stock, $4.5 million received from the issuance of convertible notes and $8.0 million received under the final closing of our Securities Purchase Agreement with Vatea Fund; partially offset by $8.0 million prepayment of outstanding long term debt.

Operating Capital and Capital Expenditure Requirements

Our future capital requirements will depend on many factors that include, but are not limited to the following:

- The initiation, progress, timing and completion of clinical trials for our product candidates and potential product candidates;
- The outcome, timing and cost of regulatory approvals and the regulatory approval process;
- Delays that may be caused by changing regulatory requirements;
- The number of product candidates that we pursue;
- The costs involved in filing and prosecuting patent applications and enforcing and defending patent claims;
- The timing and terms of future in-licensing and out-licensing transactions;
- The cost and timing of establishing sales, marketing, manufacturing and distribution capabilities;
- The cost of procuring clinical and commercial supplies of our product candidates;
- The extent to which we acquire or invest in businesses, products or technologies; and
- The possible costs of litigation.

Based on our working capital at April 30, 2013 we believe we have sufficient capital on hand to continue to fund operations through July 31, 2013.

We will need substantial additional capital in the future in order to complete the development and commercialization of Oxycyte and to fund the development and commercialization of our future product candidates. Until we can generate a sufficient amount of product revenue, if ever, we expect to finance future cash needs through public or private equity offerings, debt financings or corporate collaboration and licensing arrangements. Such funding, if needed, may not be available on favorable terms, if at all. In the event we are unable to obtain additional capital, we may delay or reduce the scope of our current research and development programs and other expenses.

To the extent that we raise additional funds by issuing equity securities, our stockholders may experience additional significant dilution, and debt financing, if available, may involve restrictive covenants. To the extent that we raise additional funds through collaboration and licensing arrangements, it may be necessary to relinquish some rights to our technologies or our product candidates 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.

Off-Balance Sheet Arrangements

Since our inception, we have not engaged in any off-balance sheet arrangements, including the use of structured finance, special purpose entities or variable interest entities.

Summary of Significant Accounting Policies

Use of Estimates—The preparation of the accompanying consolidated financial statements in conformity with accounting principles generally accepted in the United States of America, or GAAP, requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and reported amounts of expenses during the reporting period. Actual results could differ from those estimates.

Preclinical Study and Clinical Accruals—We estimate our preclinical study and clinical trial expenses based on the services received pursuant to contracts with several research institutions and CROs that conduct and manage preclinical and clinical trials on our behalf. The financial terms of the agreements vary from contract to contract and may result in uneven expenses and payment flows. Preclinical study and clinical trial expenses include the following:

- Fees paid to CROs in connection with clinical trials,
- Fees paid to research institutions in conjunction with preclinical research studies, and
- Fees paid to contract manufacturers and service providers in connection with the production and testing of active pharmaceutical ingredients and drug materials for use in preclinical studies and clinical trials.

Revenue Recognition—Revenues from merchandise sales are recognized upon transfer of ownership, including passage of title to the customer and transfer of the risk of loss related to those goods. Revenues are reported on a net sales basis, which is computed by deducting from gross sales the amount of actual product returns received, discounts, incentive arrangements with retailers and an amount established for anticipated product returns. Our practice is to accept product returns from retailers only if properly requested, authorized and approved. As a percentage of gross sales, returns were less than 5% in fiscal years 2013 and 2012.

Revenues from a cost-reimbursement grant sponsored by the United States Army, or Grant Revenue, are recognized as milestones under the Grant program are achieved. Grant Revenue is earned through reimbursements for the direct costs of labor, travel, and supplies, as well as the pass-through costs of subcontracts with third-party CROs

Stock-Based Compensation—Effective May 1, 2005, we adopted Accounting Standards Codification, or ASC, 718 Compensation — Stock Compensation, using the prospective transition method, which requires the measurement and recognition of compensation expense for all stock-based payment awards granted, modified and settled to our employees and directors after May 1, 2005. Our financial statements reflect the impact of ASC 718. We chose the "straight-line" attribution method for allocating compensation costs and recognized the fair value of each stock option on a straight-line basis over the requisite service period.

We account for equity instruments issued to non-employees in accordance with ASC 505-50 Accounting for Equity Instruments That Are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods or Services. Equity instruments issued to non-employees are recorded at their fair value on the measurement date and are subject to periodic adjustment as the underlying equity instruments vest.

Recent Accounting Pronouncements

On May 1, 2012, we adopted ASU 2011-05, Comprehensive Income (Topic 220): Presentation of Comprehensive Income. Under the amendments to Topic 220, Comprehensive Income, an entity has the option to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In both choices, an entity is required to present each component of net income along with total net income, each component of other comprehensive income along with a total for other comprehensive income, and a total amount for comprehensive income. This update eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The amendments in this update do not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. The adoption of ASU 2011-05 did not have a material impact on our financial statements.

On May 1, 2012, we adopted ASU 2011-04, Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs. The amendments in this update result in common fair value measurement and disclosure requirements in GAAP and IFRSs. Consequently, the amendments change the wording used to describe many of the requirements in GAAP for measuring fair value and for disclosing information about fair value measurements. The amendments in this update will not result in a change in the application of the requirements in Topic 820. The adoption of ASU 2011-05 did not have a material impact on our financial statements.

ITEM 7A—QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not applicable.

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ITEM 8—FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

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Report of Independent Registered Accounting Firm

To the Board of Directors and Stockholders
Oxygen Biotherapeutics, Inc.
Morrisville, North Carolina

We have audited the accompanying balance sheets of Oxygen Biotherapeutics, Inc., formerly, Synthetic Blood International, Inc. (a development-stage enterprise) (the "Company") as of April 30, 2013 and 2012, and the related statements of operations, stockholders' deficit, and cash flows for the years then ended, and for the period from inception, May 26, 1967, through April 30, 2013. The Company's management is responsible for these financial statements. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Oxygen Biotherapeutics, Inc., formerly Synthetic Blood International, Inc. as of April 30, 2013 and 2012 and the results of its operations and its cash flows for the years then ended, and from the period from inception, May 26, 1967, through April 30, 2013, in conformity with accounting principles generally accepted in the United States of America.

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. The Company is a development stage enterprise presently generating insufficient operating revenues, has a significant deficit accumulated during the development stage, and requires substantial additional funds to complete clinical trials and pursue regulatory approvals. In view of these matters, recoverability of a major portion of the recorded asset amounts shown in the accompanying April 30, 2013 balance sheet is dependent upon continued operations of the Company, which in turn is dependent upon the Company's ability to meet its financing requirements on a continuing basis, to maintain present financing, and to generate cash from future operations. These factors raise substantial doubt about the Company's ability to continue as a going concern. Management's plans concerning these matters are described in Note A. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ CHERRY BEKAERT LLP

Raleigh, North Carolina
June 26, 2013

OXYGEN BIOTHERAPEUTICS, INC.
(a development stage enterprise)

BALANCE SHEETS

	April 30, 2013	April 30, 2012
ASSETS		
Current assets		
Cash and cash equivalents	$ 783,528	$ 1,879,872
Accounts receivable	445,237	13,385
Government grant receivable	96,226	35,650
Inventory	99,204	83,370
Prepaid expenses	247,646	455,946
Other current assets	170,410	162,809
Total current assets	1,842,251	2,631,032
Property and equipment, net	205,389	293,606
Debt issuance costs, net	150,043	278,659
Intangible assets, net	924,698	872,971
Other assets	58,262	65,666
Total assets	$ 3,180,643	$ 4,141,934
LIABILITIES AND STOCKHOLDERS' DEFICIT		
Current liabilities		
Accounts payable	$ 977,162	$ 542,809
Accrued liabilities	874,876	1,273,837
Convertible preferred stock	-	1,247,266
Current portion of notes payable, net	57,539	62,958
Total current liabilities	1,909,577	3,126,870
Other liabilities	54,660	-
Long-term portion of notes payable, net	2,994,442	1,361,110
Total liabilities	4,958,679	4,487,980
Commitments and contingencies; see Note J.		
Stockholders' deficit		
Preferred stock, undesignated, authorized 9,990,400 shares; issued 2,100; outstanding 987 and 0, respectively; see Note E and Note H.	1	-
Common stock, par value $.0001 per share; authorized 400,000,000 shares; issued and outstanding 1,930,078 and 1,470,890, respectively	193	2,942
Additional paid-in capital	115,265,854	107,279,296
Deficit accumulated during the development stage	(117,044,084)	(107,628,284)
Total stockholders' deficit	(1,778,036)	(346,046)
Total liabilities and stockholders' deficit	$ 3,180,643	$ 4,141,934

The accompanying notes are an integral part of these Financial Statements.

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OXYGEN BIOTHERAPEUTICS, INC.
(a development stage enterprise)

STATEMENTS OF OPERATIONS

	Period from May 26, 1967 (Inception) to April 30, 2013	Year ended April 30, 2013	Year ended April 30, 2012
Product revenue	$ 562,937	$ 92,683	$ 100,519
Cost of sales	352,579	43,111	51,253
Net product revenue	210,358	49,572	49,266
Government grant revenue	1,455,871	1,141,356	314,515
Total net revenue	1,666,229	1,190,928	363,781
Operating expenses			
Selling, general, and administrative	50,585,212	3,676,145	6,091,806
Research and development	24,531,128	2,455,816	2,462,638
Restructuring expense	220,715	220,715	-
Loss on impairment of long-lived assets	390,970	27,279	29,534
Total operating expenses	75,728,025	6,379,755	8,583,978
Net operating loss	74,061,796	5,189,027	8,220,197
Interest expense	43,962,019	4,238,456	7,412,054
Loss on extinguishment of debt	250,097	–	–
Other (income) expense	(1,229,828)	(11,683)	80,159
Net loss	$ 117,044,084	$ 9,415,800	$ 15,712,410
Preferred stock dividend	958,071	958,071	-
Net loss attributable to common stockholders	$ 118,002,155	$ 10,373,871	$ 15,712,410
Net loss per share, basic		$ (6.29)	$ (12.12)
Weighted average number of common shares outstanding, basic		1,650,280	1,296,414
Net loss per share, diluted		$ (6.68)	$ (14.07)
Weighted average number of common shares outstanding, diluted		1,759,025	1,387,621

The accompanying notes are an integral part of these Financial Statements.

OXYGEN BIOTHERAPEUTICS, INC.
(a development stage enterprise)

STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)

For the two years ended April 30, 2013 and for the cumulative period May 26, 1967 (date of inception) to April 30, 2013

	Preferred Stock		Common Stock		Additional paid-in capital	Defecit accumulated during the development stage	Total stockholders' equity (deficit)
	Number of Shares	Amount	Number of Shares	Amount			
Balance at April 30, 2011	**-**	**$ -**	1,169,666	**$ 2,339**	**$ 88,189,012**	**$ (91,915,874)**	**$ (3,724,523)**
Common stock sold, net of offering costs			168,422	337	7,999,664		8,000,001
Common stock issued for convertible preferred stock			93,713	187	3,462,136		3,462,323
Common stock issued as interest on convertible debt			12,192	24	549,809		549,833
Common stock issued as dividend on convertible preferred stock			2,241	5	81,886		81,891
Compensation on options and restricted stock issued			1,602	4	192,894		192,898
Issuance of warrants					3,130,808		3,130,808
Exercise of warrants and options			23,054	46	733,583		733,629
Beneficial conversion feature of convertible debt					2,939,504		2,939,504
Net loss						(15,712,410)	(15,712,410)
Balance at April 30, 2012	**-**	**$ -**	**1,470,890**	**$ 2,942**	**$107,279,296**	**$(107,628,284)**	**$ (346,046)**
Preferred stock sold, net of offering costs	2,100	1			1,851,149		1,851,150
Common stock sold, net of offering costs							-
Common stock issued for convertible preferred stock	(1,113)		400,708	804	4,509,184		4,509,988
Common stock issued as interest on convertible debt			16,524	33	745,175		745,208
Common stock issued as dividend on convertible preferred stock			17,409	32	331,366		331,398
Compensation on options and restricted stock issued			4,465	9	269,522		269,531
Issuance of warrants					656,535		656,535
Exchange of warrants			20,000	40	(380,040)		(380,000)
Beneficial conversion feature of convertible debt							-
Fractional shares of common stock due to reverse stock split			82	(3,667)	3,667		-
Net loss						(9,415,800)	(9,415,800)
Balance at April 30, 2013	**987**	**$ 1**	**1,930,078**	**$ 193**	**$ 115,265,854**	**$ (117,044,084)**	**$ (1,778,036)**

	Preferred Stock		Common Stock		Additional paid-in capital	Defecit accumulated during the development stage	Total stockholders' equity (deficit)
	Number of Shares	Amount	Number of Shares	Amount			
Balance at May 26, 1967	-	$ -	-	$ -	$ -	$ -	$ -
Preferred stock sold, net of offering costs	2,100	1			1,851,149		1,851,150
Common stock sold, net of offering costs			773,306	1,058,966	39,749,887		40,808,853
Issuance of common stock for promissory notes			365,526	243,621	23,773,189		24,016,810
Compensation on options and restricted stock issued			25,317	36,495	12,951,573		12,988,068
Warrants issued with debt instruments			-	-	8,619,525		8,619,525
Issuance of warrants			-	-	8,461,863		8,461,863
Exercise of warrants and options			63,259	164,696	3,630,188		3,794,884
Common stock issued for convertible preferred stock	(1,113)		494,421	991	7,971,320		7,972,311
Beneficial conversion on convertible debt			-	-	3,292,648		3,292,648
Beneficial conversion feature of convertible debt			-	-	2,939,504		2,939,504
Common stock issued in conjunction with funding agreements and services rendered			17,922	53,764	883,160		936,924
Contributions of capital by shareholders			-	-	581,818		581,818
Common stock issued as interest on convertible debt			28,716	57	1,294,984		1,295,041
Issuance of common stock to officers to retire shareholder loans			3,482	10,444	177,556		188,000
Common stock issued as dividend on convertible preferred stock			19,650	37	413,252		413,289
Contributions of capital for services rendered			-	-	65,700		65,700
Exchange of warrants			138,189	3,584	(2,963,924)		(2,960,340)
Common stock par value change			-	(1,541,114)	1,541,114		-
Fractional shares of common stock due to reverse stock split			290	(31,348)	31,348		-
Net loss						(117,044,084)	(117,044,084)
Balance at April 30, 2013	**987**	**$ 1**	**1,930,078**	**$ 193**	**$ 115,265,854**	**$ (117,044,084)**	**$ (1,778,036)**

The accompanying notes are an integral part of these Financial Statements.

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OXYGEN BIOTHERAPEUTICS, INC.
(a development stage enterprise)

STATEMENTS OF CASH FLOWS

	Period from May 26, 1967 (Inception) to April 30, 2013	Year ended April 30, 2013	Year ended April 30, 2012
CASH FLOWS FROM OPERATING ACTIVITIES			
Net Loss	$ (117,044,084)	$ (9,415,800)	$ (15,712,410)
Adjustments to reconcile net loss to net cash used in operating activities			
Depreciation and amortization	2,219,612	148,804	206,677
Amortization of deferred compensation	336,750	-	-
Interest on debt instruments	43,552,326	4,236,332	7,397,357
Loss on debt settlement and extinguishment	163,097	-	-
Loss on impairment, disposal and write down of long-lived assets	826,846	35,673	123,518
Issuance and vesting of compensatory stock options and warrants	8,374,928	84,267	65,373
Issuance of common stock below market value	695,248	-	-
Issuance of common stock as compensation	867,790	185,264	127,525
Issuance of common stock for services rendered	1,265,279	-	-
Issuance of note payable for services rendered	120,000	-	-
Contributions of capital through services rendered by stockholders	216,851	-	-
Changes in operating assets and liabilities			
Accounts receivable, prepaid expenses and other assets	(1,039,284)	(245,747)	(74,760)
Inventory	210,518	(20,228)	(7,280)
Accounts payable and accrued liabilities	2,012,288	70,152	(404,366)
Net cash used in operating activities	(57,221,835)	(4,921,283)	(8,278,366)
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of property and equipment	(1,778,942)	(17,199)	(17,652)
Proceeds from the sale of property and equipment	8,307	4,064	4,243
Capitalization of patent costs and license rights	(1,896,928)	(134,852)	(247,737)
Net cash used in investing activities	(3,667,563)	(147,987)	(261,146)
CASH FLOWS FROM FINANCING ACTIVITIES			
Proceeds from sale of common stock and exercise of stock options and warrants, net of related expenses and payments	44,478,293	-	8,733,629
Repurchase of outstanding warrants	(3,216,520)	(380,000)	-
Proceeds from stockholder notes payable	977,692	-	-
Proceeds from issuance of notes payable, net of issuance costs	7,621,192	102,671	837,692
Proceeds from convertible notes, net of issuance costs	13,321,447	-	4,514,162
Proceeds for issuance of convertible preferred stock	7,851,150	4,351,150	3,500,000
Payments on notes - short-term	(1,360,328)	(100,895)	(118,043)
Payments on notes - long-term	(8,000,000)	-	(8,000,000)
Net cash provided by financing activities	61,672,926	3,972,926	9,467,440
Net change in cash and cash equivalents	783,528	(1,096,344)	927,928
Cash and cash equivalents, beginning of period	-	1,879,872	951,944
Cash and cash equivalents, end of period	$ 783,528	$ 783,528	$ 1,879,872
Cash paid for:			
Interest	$ 267,426	$ 2,123	$ 14,697
Income taxes	$ 27,528	$ -	$ -

The accompanying notes are an integral part of these Financial Statements.

OXYGEN BIOTHERAPEUTICS, INC.
(a development stage enterprise)

STATEMENTS OF CASH FLOWS, continued

Non-cash financing activities during the year ended April 30, 2013:

- The Company issued 16,524 shares of restricted common stock for the payment of interest accrued on convertible notes. The shares were issued at a conversion price of $45.11 for the payment of $745,208 interest payable on convertible notes with a gross carrying value of $4,900,000.

- The Company issued 191,934 shares of its common stock upon the conversion of 3,668 shares of Series A convertible preferred stock with a fair value of $4,509,987.

Non-cash financing activities during the year ended April 30, 2012:

- The Company issued 12,192 shares of restricted common stock for the payment of interest accrued on convertible notes. The shares were issued at a conversion price of $45.11 for the payment of $561,332 interest payable on convertible notes with a gross carrying value of $4,900,000.

- The Company issued 79,164 shares of its common stock upon the conversion of 2,332 shares of Series A convertible preferred stock with a fair value of $2,931,406.

The accompanying notes are an integral part of these Financial Statements.

OXYGEN BIOTHERAPEUTICS, INC.
(a development stage enterprise)

NOTES TO FINANCIAL STATEMENTS
As of April 30, 2013 and 2012, and for the years then ended.

NOTE A—DESCRIPTION OF BUSINESS AND GOING CONCERN

Description of Business—Oxygen Biotherapeutics (the "Company") was originally formed as a New Jersey corporation in 1967 under the name Rudmer, David & Associates, Inc., and subsequently changed its name to Synthetic Blood International, Inc. On June 17, 2008, the stockholders of Synthetic Blood International approved the Agreement and Plan of Merger dated April 28, 2008, between Synthetic Blood International and Oxygen Biotherapeutics, Inc., a Delaware corporation. Oxygen Biotherapeutics was formed on April 17, 2008, by Synthetic Blood International to participate in the merger for the purpose of changing the state of domicile of Synthetic Blood International from New Jersey to Delaware. Certificates of Merger were filed with the states of New Jersey and Delaware, and the merger was effective June 30, 2008. Under the Plan of Merger, Oxygen Biotherapeutics is the surviving corporation and each share of Synthetic Blood International common stock outstanding on June 30, 2008 was converted to one share of Oxygen Biotherapeutics common stock.

The Company was inactive through September 1990, when it began conducting operations for the purpose of developing a synthetic blood emulsion to act as a human blood substitute, and a method of using a PFC compound to facilitate oxygen exchange for individuals with respiratory distress syndrome. The Company submitted an Investigational New Drug Application ("IND") for Oxycyte, the Company's alternative to transfused blood for use in surgical and similar medical situations, to the Food and Drug Administration ("FDA") in 2003 and successfully conducted a Phase I safety clinical study in the fourth quarter of 2003. The results of the Phase I study were consistent with the results of preclinical animal safety studies, and showed a good safety profile for Oxycyte. The Company started Phase II clinical trials of Oxycyte in surgical patients in the fourth quarter of 2004. The protocol was successfully completed in 2006 and filed in April 2008. This protocol was put on clinical hold due to safety concerns raised by the regulatory agency. In April 2009, the Company filed an application with the FDA to obtain orphan drug designation for Oxycyte for the treatment of patients with severe, closed-head Traumatic Brain Injury ("TBI"). The Company filed a Cosmetic Product Ingredient Statement ("CPIS") with the FDA for Dermacyte Gel, its new Oxycyte-based cosmetic product. The gel is an oxygen-rich formulation of Oxycyte which the Company believes will promote skin health and other desirable cosmetic benefits when applied to the skin. A CPIS is a voluntary registration with the FDA recommended for a cosmetic product's commercial introduction. Vitavent (previously Fluorovent), an oxygen exchange device, for facilitating the treatment of lung conditions is at the preclinical development stage and is currently inactive. The Company has not generated significant revenues since inception.

Reverse Stock Split

The Company initiated a 1-for-20 reverse stock split effective May 10, 2013. All shares and per share amounts in these financial statements and notes thereto have been retroactively adjusted to give effect to the reverse stock split.

Going Concern

Management believes the accompanying financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America ("GAAP"), which contemplate continuation of the Company as a going concern. The Company has an accumulated deficit during the development stage of $117,044,084 and $107,628,284 at April 30, 2013 and 2012, respectively, and used cash in operations of $4,921,283 and $8,278,366 during the years ended April 30, 2013 and 2012, respectively. The Company requires substantial additional funds to complete clinical trials and pursue regulatory approvals. Management is actively seeking additional sources of equity and/or debt financing; however, there is no assurance that any additional funding will be available.

In view of the matters described above, recoverability of a major portion of the recorded asset amounts shown in the accompanying April 30, 2013 balance sheet is dependent upon continued operations of the Company, which in turn is dependent upon the Company's ability to meet its financing requirements on a continuing basis, to maintain present financing, and to generate cash from future operations. These factors, among others, raise substantial doubt about the Company's ability to continue as a going concern. The financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts or amounts and classification of liabilities that might be necessary should the Company be unable to continue in existence.

NOTE B—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Development Stage

The Company has not commenced its planned principal operations, and has not earned significant revenues; therefore it is considered a "Development Stage Enterprise."

Use of Estimates

The preparation of the accompanying financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and reported amounts of expenses during the reporting period. Actual results could differ from those estimates.

Cash and Cash Equivalents

The Company considers all highly liquid instruments with a maturity date of three months or less, when acquired, to be cash equivalents.

Cash Concentration Risk

On July 21, 2010, the Wall Street Reform and Consumer Protection Act permanently increased the FDIC insurance limits to $250,000 per depositor per insured bank. At April 30, 2013, the Company had $283,528 of cash balances uninsured by the FDIC.

Deferred financing costs

Deferred financing costs represent legal, due diligence and other direct costs incurred to raise capital or obtain debt. Direct costs include only "out-of-pocket" or incremental costs directly related to the effort, such as a finder's fee and accounting and legal fees. These costs will be capitalized if the efforts are successful, or expensed when unsuccessful. Indirect costs are expensed as incurred. Deferred financing costs related to debt are amortized over the life of the debt. Deferred financing costs related to issuing equity are charged to Paid in Capital. The treatment of issuance costs on liabilities for which the Company has elected the fair value option is further described in "Debt or derivative liabilities recorded at fair value" below.

Derivative financial instruments

The Company does not use derivative instruments to hedge exposures to cash flow, market or foreign currency risk. Terms of convertible promissory note instruments and other convertible equity instruments are reviewed to determine whether or not they contain embedded derivative instruments that are required under FASB ASC 815, Derivatives and Hedging ("ASC 815") to be accounted for separately from the host contract, and recorded on the balance sheet at fair value. The fair value of derivative liabilities, if any, is required to be revalued at each reporting date, with corresponding changes in fair value recorded in current period operating results.

Freestanding warrants issued by the Company in connection with the issuance or sale of debt and equity instruments are considered to be derivative instruments, and are evaluated and accounted for in accordance with the provisions of ASC 815. Pursuant to ASC 815, an evaluation of specifically identified conditions is made to determine whether the fair value of warrants issued is required to be classified as equity or as a derivative liability.

In February 2013, the Company issued warrants to purchase an aggregate of 630,000 shares of Common Stock as part of the Series B Preferred stock offering. In accordance with ASC 815, these warrants are classified as equity and their calculated fair-value was considered as a discount on the preferred shares and $958,057 was recognized as a deemed dividend on the Series B Preferred Stock during the year ended April 30, 2013.

In June 2012, the Company issued warrants to purchase 28,154 shares of Common Stock as part of the Series A Preferred Stock offering. In accordance with ASC 815, these warrants are classified as equity and their calculated fair value of $656,535 was recognized as a discount on the related preferred stock in the current period.

In December 2011, the Company issued warrants to purchase 39,415 shares of Common Stock as part of the Series A Preferred Stock offering. In accordance with ASC 815, these warrants are classified as equity and their calculated fair value of $1,170,311 was recognized as a discount on the related preferred stock during the year ended April 30, 2012.

Debt or derivative liabilities recorded at fair value

The Series A Convertible Preferred Stock, par value $0.0001 per share (the "Series A Preferred Stock") has mandatorily redeemable installments with the remainder outstanding at maturity also subject to mandatory redemption, which meets the definition of a "mandatorily redeemable financial instrument" and thus is recorded as a liability at fair value in accordance with ASC 480, *Distinguishing Liabilities From Equity*. Costs related to the issuance of debt for which management has elected the fair value option are recognized in current earnings. Management determines fair value of the outstanding Series A Preferred Stock as of the end of each reporting period and reduces the amount outstanding for any redemptions, exercises, or conversions at the fair value determined at the end of the prior reporting period. The fair value adjustment is charged or credited to Interest expense. For the years ended April 30, 2013 and 2012, the Company recognized $0 and $678,661 as non-cash interest expense for the adjustment to fair value of the outstanding Series A Preferred Stock on that date.

The certificate of designations governing the rights and preferences of the Series A Preferred Stock contains several embedded features that would be required to be considered for bifurcation. The Company has elected the fair value option, and as such, will value the host Series A Preferred Stock certificate of designations and embedded features as one instrument. Changes in the fair value of the Series A Preferred Stock will be recorded as interest expense on the Statement of Operations.

Redemptions

The Company expects to redeem the Series A Preferred Stock by issuing shares of the Company's common stock, par value $0.0001 (the "Common Stock"). The difference between the fair value of the Series A Preferred Stock and the fair value of the Common Stock on the date the Common Stock is issued is charged or credited to interest expense.

Conversions

Investors in the Series A Preferred Stock can voluntarily convert their preferred shares to Common Stock at a conversion price defined in the Preferred Stock certificate of designations. The difference between the fair value of the Series A Preferred Stock and the fair value of the Common Stock given in conversion is recognized as a gain or loss on the extinguishment of debt.

Dividends

Dividends paid with scheduled redemptions are expected to be paid in Common Stock. When an investor voluntarily converts its preferred shares, we are required to pay the investor for the dividends that would have been earned had the shares been held to maturity. The portion of those dividends that have not been accrued may be paid in cash or Common Stock, and are referred to as "make whole" payments. Dividends paid in stock are valued at the fair value of the Common Stock as of the date of issuance and are charged to interest expense.

Beneficial conversion and warrant valuation

In accordance with FASB ASC 470-20, Debt with Conversion and Other Options, the Company records a beneficial conversion feature ("BCF") related to the issuance of convertible debt that have conversion features at fixed rates that are in-the-money when issued and the fair value of warrants issued in connection with those instruments. The BCF for the convertible instruments is recognized and measured by allocating a portion of the proceeds to warrants, based on their relative fair value, and as a reduction to the carrying amount of the convertible debt equal to the intrinsic value of the conversion feature. The discount recorded in connection with the BCF and warrant valuation is recognized as non-cash interest expense and is amortized over the life of the convertible note. For the year ended April 30, 2012, the company recorded $1,960,497 and $2,939,504 for the calculated fair value of the warrants and BCF, respectively in conjunction with the convertible notes issued on June 29, 2011 and July 1, 2011.

Preclinical Study and Clinical Accruals

The Company estimates its preclinical study and clinical trial expenses based on the services received pursuant to contracts with several research institutions and contract research organizations ("CROs") that conduct and manage preclinical and clinical trials on its behalf. The financial terms of the agreements vary from contract to contract and may result in uneven expenses and payment flows. Preclinical study and clinical trial expenses include the following:

- Fees paid to CROs in connection with clinical trials,
- Fees paid to research institutions in conjunction with preclinical research studies, and
- Fees paid to contract manufacturers and service providers in connection with the production and testing of active pharmaceutical ingredients and drug materials for use in preclinical studies and clinical trials.

Property and Equipment, Net

Property and equipment are stated at cost, subject to adjustments for impairment, less accumulated depreciation and amortization. Depreciation and amortization are computed using the straight-line method over the following estimated useful lives:

Laboratory equipment	3 – 5 years
Office equipment	5 years
Office furniture and fixtures	7 years
Computer equipment and software	3 years
Leasehold improvements	Shorter of useful life or remaining lease term

Maintenance and repairs are charged to expense as incurred, improvements to leased facilities and equipment are capitalized.

Impairment of Long-Lived Assets

The Company reviews its long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable.

Revenue Recognition

Revenues from merchandise sales are recognized upon transfer of ownership, including passage of title to the customer and transfer of the risk of loss related to those goods. Revenues are reported on a net sales basis, which is computed by deducting from gross sales the amount of actual product returns received, discounts, incentive arrangements with retailers and an amount established for anticipated product returns. The Company's practice is to accept product returns from retailers only if properly requested, authorized and approved. As a percentage of gross sales, returns were less than 5% in fiscal years 2013 and 2012.

Revenues from a cost-reimbursement grant sponsored by the United States Army, or Grant Revenue, are recognized as milestones under the Grant program are achieved. Grant Revenue is earned through reimbursements for the direct costs of labor, travel, and supplies, as well as the pass-through costs of subcontracts with third-party CROs.

Research and Development Costs

Research and development costs include, but are not limited to, (i) expenses incurred under agreements with contract research organizations and investigative sites, which conduct our clinical trials and a substantial portion of our preclinical studies; (ii) the cost of manufacturing and supplying clinical trial materials; (iii) payments to contract service organizations, as well as consultants; (iv) employee-related expenses, which include salaries and benefits; and (v) facilities, depreciation and other allocated expenses, which include direct and allocated expenses for rent and maintenance of facilities and equipment, depreciation of leasehold improvements and equipment and laboratory and other supplies. All research and development expenses are expensed as incurred.

Income Taxes

Deferred tax assets and liabilities are recorded for differences between the financial statement and tax bases of the assets and liabilities that will result in taxable or deductible amounts in the future based on enacted tax laws and rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is recorded for the amount of income tax payable or refundable for the period increased or decreased by the change in deferred tax assets and liabilities during the period.

Stock-Based Compensation

We account for stock based compensation in accordance with ASC 718 Compensation — Stock Compensation, using the prospective transition method, which requires the measurement and recognition of compensation expense for all stock-based payment awards granted, modified and settled to our employees and directors after May 1, 2005. Our financial statements reflect the impact of ASC 718. We chose the “straight-line” attribution method for allocating compensation costs of each stock option on a straight-line basis over the requisite service period using the Black-Scholes Option Pricing Model to calculate the grant date fair value.

Loss Per Share

Basic loss per share, which excludes antidilutive securities, is computed by dividing loss available to common shareholders by the weighted-average number of common shares outstanding for that particular period. In contrast, diluted loss per share considers the potential dilution that could occur from other equity instruments that would increase the total number of outstanding shares of common stock. Such amounts include shares potentially issuable under outstanding options, warrants and convertible debentures. A reconciliation of the numerator and denominator used in the calculation of basic and diluted net loss per share follows.

	Year ended April 30,	
	2013	2012
Historical net loss per share:		
Numerator		
Net loss, attributable to common stockholders	$ (10,373,871)	$ (15,712,410)
Less: Effect of amortization of interest expense on convertible notes	(1,382,537)	(3,817,550)
Net loss attributable to common stockholders (diluted)	(11,756,408)	(19,529,960)
Denominator		
Weighted-average common shares outstanding	1,650,280	1,296,414
Effect of dilutive securities	108,745	91,207
Denominator for diluted net loss per share	1,759,025	1,387,621
Basic net loss per share	$ (6.29)	$ (12.12)
Diluted net loss per share	$ (6.68)	$ (14.07)

The following outstanding options, convertible note shares and warrants were excluded from the computation of basic and diluted net loss per share for the periods presented because including them would have had an anti-dilutive effect.

	As of April 30,	
	2013	2012
Warrants to purchase common stock	759,410	261,999
Convertible preferred shares outstanding	97,400	29,142
Options to purchase common stock	11,336	17,592
Restricted stock grants	1,917	1,805
Convertible note shares outstanding	98	98

Operating Leases

The Company maintains operating leases for its office and laboratory facilities. The lease agreements may include rent escalation clauses and tenant improvement allowances. We recognize scheduled rent increases on a straight-line basis over the lease term beginning with the date we take possession of the leased space. Differences between rental expense and actual rental payments are recorded as deferred rent liabilities and are included in “Other liabilities” on the balance sheets.

Fair Value

The company records its financial assets and liabilities in accordance with ASC 820 Fair Value Measurements. The Company's balance sheet includes the following financial instruments: cash and cash equivalents, short-term notes payable, convertible preferred stock and convertible notes. The Company considers the carrying amount of its cash and cash equivalents and short-term notes payable to approximate fair value due to the short-term nature of these instruments. The Company did not elect the fair value option and records the carrying value of its convertible notes at amortized cost in accordance with ASC 470-20.

Accounting for fair value measurements involves a single definition of fair value, along with a conceptual framework to measure fair value, with a fair value 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 fair value measurement hierarchy consists of three levels:

Level one	Quoted market prices in active markets for identical assets or liabilities;
Level two	Inputs other than level one inputs that are either directly or indirectly observable, and
Level three	Unobservable inputs developed using estimates and assumptions; which are developed by the reporting entity and reflect those assumptions that a market participant would use.

We apply valuation techniques that (1) place greater reliance on observable inputs and less reliance on unobservable inputs and (2) are consistent with the market approach, the income approach and/or the cost approach, and include enhanced disclosures of fair value measurements in our financial statements.

The following tables show information regarding assets and liabilities measured at fair value on a recurring basis as of April 30, 2013 and 2012:

		Fair Value Measurements at Reporting Date Using		
	Balance as of April 30, 2013	Quoted prices in Active Markets for Identical Securities (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Current Assets				
Cash and cash equivalents	$ 783,528	$ 783,528	$ -	$ -
Current Liabilities				
Series A convertible preferred stock	$ -	$ -	$ -	$ -

There were no significant transfers between levels in the years ended April 30 2013 and 2012.

		Fair Value Measurements at Reporting Date Using		
	Balance as of April 30, 2012	Quoted prices in Active Markets for Identical Securities (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Current Assets				
Cash and cash equivalents	$ 1,879,872	$ 1,879,872	$ -	$ -
Current Liabilities				
Series A convertible preferred stock	$ 1,247,266	$ -	$ -	$ 1,247,266

Financial assets or liabilities are considered Level 3 when their fair values are determined using pricing models, discounted cash flow methodologies or similar techniques and at least one significant model assumption or input is unobservable. The following table provides a summary of the changes in fair value of our financial liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) during the years ended April 30, 2013and 2012, respectively:

	Series A Convertible Preferred Stock
Balance as of April 30, 2012	$ 1,247,266
Issued on June 15, 2012	2,500,000
Conversions to Common Stock	(3,747,266)
Adjustments to fair value as of April 30, 2013	-
Transfers in and/or out of Level 3	-
Balance as of April 30, 2013	$ -

	Series A Convertible Preferred Stock
Issued on December 12, 2011:	$ 3,500,000
Conversions to Common Stock	(3,462,338)
Adjustments to fair value as of April 30, 2012	1,209,604
Transfers in and/or out of Level 3	-
Balance as of April 30, 2012	$1,247,266

The Preferred Stock is recorded at fair value with changes in fair value recorded as gains or losses within Non-cash-interest expense. The estimate of the fair value of the securities noted above, as of the valuation date, is based on the rights and privileges afforded to the Preferred Stock. The fair value of the Preferred Stock is determined at each reporting period by calculating the number of conversion shares underlying the outstanding Preferred Stock as described in the Series A Convertible Preferred Stock Certificate of Designations at the average volume weighted average price of our common stock on the valuation date (unobservable inputs).

Recent Accounting Pronouncements

On May 1, 2012 the Company adopted ASU 2011-05, Comprehensive Income (Topic 220): Presentation of Comprehensive Income. Under the amendments to Topic 220, Comprehensive Income, an entity has the option to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In both choices, an entity is required to present each component of net income along with total net income, each component of other comprehensive income along with a total for other comprehensive income, and a total amount for comprehensive income. This update eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The amendments in this update do not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. The adoption of ASU 2011-05 did not have a material impact on its financial statements.

On May 1, 2012 the Company adopted ASU 2011-04, Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs. The amendments in this update result in common fair value measurement and disclosure requirements in accounting principles generally accepted in the United States of America and IFRSs. Consequently, the amendments change the wording used to describe many of the requirements in accounting principles generally accepted in the United States of America for measuring fair value and for disclosing information about fair value measurements. The amendments in this update will not result in a change in the application of the requirements in Topic 820. The adoption of ASU 2011-04 did not have a material impact on its financial statements.

NOTE C—BALANCE SHEET COMPONENTS

Inventory

The Company operates in an industry characterized by rapid improvements and changes to its technology and products. The introduction of new products by the Company or its competitors can result in its inventory being rendered obsolete or requiring it to sell items at a discount. The Company evaluates the recoverability of its inventory by reference to its internal estimates of future demands and product life cycles. If the Company incorrectly forecasts demand for its products or inadequately manages the introduction of new product lines, this could materially impact its financial statements by having excess inventory on hand. The Company's future estimates are subjective and actual results may vary.

Inventories are recorded at cost using the First-In-First-Out (“FIFO”) method. Ending inventories are comprised of raw materials and direct costs of manufacturing and valued at the lower of cost or market. Inventories consisted of the following as of April 30, 2013 and 2012:

	April 30, 2013	April 30, 2012
Raw materials	$ 28,779	$ 25,579
Finished goods	70,425	57,791
	$ 99,204	$ 83,370

Other current assets

Other current assets consist of the following:

	April 30, 2013	April 30, 2012
R&D materials	$ 159,892	$ 116,936
Other	7,090	11,394
Dermacyte samples	3,428	19,529
Unbilled government grant expenses	-	14,950
	$ 170,410	$ 162,809

Property and equipment, net

Property and equipment consist of the following:

	April 30, 2013	April 30, 2012
Laboratory equipment	$ 768,252	$ 968,101
Computer equipment and software	135,697	134,005
Office furniture and fixtures	130,192	140,255
Leasehold improvements	-	4,810
	1,034,141	1,247,171
Less: Accumulated depreciation and amortization	(828,752)	(953,565)
	$ 205,389	$ 293,606

Depreciation and amortization expense was $92,959 and $161,494 for the years ended April 30, 2013 and 2012, respectively.

Other assets

Other assets consist of the following:

	April 30, 2013	April 30, 2012
Prepaid royalty fee	$ 50,000	$ 50,000
Other	8,262	15,666
	$ 58,262	$ 65,666

Accrued liabilities

Accrued liabilities consist of the following:

	April 30, 2013	April 30, 2012
Accrued settlement costs	$ 500,000	$ -
Deferred revenue	185,068	244,013
Employee related	66,632	352,400
Convertible note interest payable	59,583	59,583
Restructuring liability	43,728	-
Other operating costs	19,865	64,012
Contingent liability	-	532,350
Preferred stock dividend payable	-	21,479
	$ 874,876	$ 1,273,837

NOTE D—NOTES PAYABLE

The following table summarizes the Company's outstanding notes payable as of April 30, 2013 and 2012:

	April 30, 2013	April 30, 2012
Current portion of convertible notes payable	$ -	$ 7,195
Current portion of notes payable	57,539	55,763
Current portion of notes payable, net	$ 57,539	$ 62,958
Long-term portion of convertible notes payable	$ 4,900,001	$ 4,900,001
Less: Unamortized discount	(1,905,559)	(3,538,891)
Long-term portion of notes payable, net	$ 2,994,442	$ 1,361,110

Convertible Note

On June 16, 2011, the Company entered into a Convertible Note and Warrant Purchase Agreement with an institutional investor pursuant to which the Company agreed to issue and sell to the Purchaser in a private placement a subordinated convertible promissory note (the "Note") with a principal amount of $4.6 million and warrants (the "Warrants") to purchase 101,996 shares of Common Stock. On June 29, 2011, the Company increased the offering with an additional institutional investor by approximately $0.3 million and additional Warrants to purchase 6,652 shares of common stock; for a total offering size of approximately $4.9 million (the "Offering") and Warrants to purchase an aggregate of 108,648 shares of Common Stock.

Interest on the Notes accrues at a rate of 15% annually and will be paid in quarterly installments commencing on the third month anniversary of issuance. The Notes will mature 36 months from the date of issuance. The Note may be converted into shares of Common Stock at a conversion price of $45.10 per share (subject to adjustment for stock splits, dividends and combinations, recapitalizations and the like) (the "Conversion Price") at any time, in whole or in part, at any time at the option of the holders of the Notes. The Notes also will automatically convert into shares of Common Stock at the Conversion Price at the election of a majority-in-interest of the holders of notes issued under the purchase agreement or upon the acquisition or sale of all or substantially all of the assets of the Company. The Company may make each applicable interest payment or payment of principal in cash, shares of Common Stock at the Conversion Price, or any combination thereof. The Company may elect to prepay all or any portion of the Note without prepayment penalties only with the approval of a majority-in-interest of the note holders under the Purchase Agreement at the time of the election. The Notes contain various events of default such as failing to timely make any payment under the Note when due, which may result in all outstanding obligations under the Note becoming immediately due and payable. The Warrants were issued in three approximately equal tranches, with exercise prices of $43.00, $52.00 and $57.00, respectively, per share of Common Stock (in each case subject to adjustment for stock splits, dividends and combinations, recapitalizations and the like). The Warrants are exercisable on or after the date of issuance and expire on the earlier to occur of the five year anniversary of the date of issuance or an acquisition or sale of all or substantially all of the assets of the Company. The exercise prices of shares of Common Stock underlying the Warrants are subject to adjustment in the event of future issuances of Common Stock or equivalents by the Company at a price less than the applicable exercise price, but in no event shall a Warrant exercise price be adjusted to less than $45.10 per share (subject to adjustment for stock splits, dividends and combinations, recapitalizations and the like) of Common Stock.

On June 29, 2011, the Company issued a Note with a principal amount of approximately $300,000 and Warrants to purchase 6,652 shares of Common Stock. On July 1, 2011, the Company issued a separate Note with a principal amount of $4,600,000 and Warrants to purchase 101,996 shares of Common Stock. The aggregate gross proceeds to the Company from the Offering were approximately $4.9 million, excluding any proceeds from the exercise of any Warrants. The aggregate placement agent fees were $297,000 and legal fees associated with the offering were $88,839. These costs have been capitalized as debt issue costs and will be amortized as interest expense over the life of the Note. The total value allocated to the Warrants was approximately $1,960,497 and was recorded as a debt discount against the proceeds of the Notes. In addition, the beneficial conversion features related to the Notes were determined to be approximately $2,939,504. As a result, the aggregate discount on the Notes totaled $4.9 million, and is being amortized over term of the Notes.

The Company recorded interest expense of $2,507,156 and $2,089,205 for the twelve months ended April 30, 2013 and 2012, respectively. The amount includes amortization of the associated debt issue costs of $128,616 and $107,180 and accretion of the debt discount of $1,633,332 and $1,361,110 for the years ended April 30, 2013 and 2012, respectively.

Note Purchase Agreement

On October 12, 2010 the Company entered into a Note Purchase Agreement with JP SPC 1 Vatea, Segregated Portfolio ("Vatea Fund"), as amended on December 29, 2010, whereby it agreed to issue and sell to Vatea Fund an aggregate of $5,000,000 of senior unsecured promissory notes (the "Vatea Notes") on or before April 30, 2011. The Vatea Notes will mature on October 31, 2013, unless the holders of a majority of the Vatea Notes consent in writing to a later maturity date. Interest does not accrue on the outstanding principal balance of the Vatea Notes (other than following the maturity date or earlier acceleration). Instead, on the maturity date, the Company must pay the holders of the Vatea Notes a final payment premium aggregating $3,000,000, in addition to the principal balance then otherwise outstanding under the Vatea Notes. The Vatea Notes provide that the Company has the option, at its sole discretion and without penalty, to prepay the outstanding balance under the Vatea Notes plus the amount of the final payment premium prior to the maturity date. In addition, the holders of majority of the Vatea Notes may request that the Company prepay the Vatea Notes in an amount equal to the proceeds of any subsequent closings under the Securities Purchase Agreement with Vatea Fund, dated June 8, 2009, and subsequently amended.

As further discussed in Note H below, on November 14, 2011 the Company delivered 2,807,018 shares of its common stock to the holders of the SPA against payment to the Company of an aggregate of $8,000,000. Pursuant to the terms of the Note Purchase Agreement, the Company used the proceeds from the Final Closing to prepay the outstanding balance under the notes, including $2,367,574 of unaccreted final payment premium thereunder.

For the year ended April 30, 2012, the Company recorded interest expense of $2,836,366, for the accretion of the final payment premium.

NOTE E—SERIES A CONVERTIBLE PREFERRED STOCK

Under the Company's Certificate of Incorporation, the Board of Directors is authorized, without further stockholder action, to provide for the issuance of up to 10,000,000 shares of preferred stock, par value $0.0001 per share, in one or more series, to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences and rights of the shares of each such series and the qualifications, limitations and restrictions thereof.

On December 8, 2011, the Company filed a Certificate of Designation with the Secretary of State of the State of Delaware designating 7,500 shares of our authorized but unissued shares of preferred stock as Series A Convertible Preferred Stock.

Series A Convertible Preferred Stock

On December 12, 2011, the Company sold 3,500 units for net proceeds of approximately $3.2 million. Each unit sold consisted of (i) one share of the Company's Preferred Stock and (ii) a warrant representing the right to purchase 11.275 shares of Common Stock (the "2011 Warrants"), at a price of $1,000 per unit, less issuance costs. The shares of Preferred Stock were immediately convertible and the 2011 Warrants are exercisable on the one-year anniversary of the closing date.

The table below sets forth a summary of the designation, powers, preferences and rights of the Preferred Stock.

Maturity	The shares of Preferred Stock will mature on the one year anniversary of issuance of such shares.
Amortization	On each one month anniversary of issuance of the Preferred Stock, the Company will redeem, subject to certain exceptions (i) with respect to shares issued in the first closing, one-sixth of the initial stated value of the Preferred Stock, and (ii) with respect to shares issued in the additional closings, 667 shares of Preferred Stock.
Amortization Payments	The Company may elect to pay the monthly amortization payments in cash or, subject to certain conditions, in shares of Common Stock by delivering that number of shares of Common Stock equal to the amount of the monthly amortization payment divided by a per share amortization price, which shall be the lesser of (i) the then-existing conversion price, which is initially $44.40 per share of common stock and (ii) 90% of the calculated market price per share of Common Stock.
Dividends	The shares of Preferred Stock will carry a dividend equal to 7% per annum, paid monthly in arrears. The Company may elect to pay dividends in cash or, subject to certain conditions, in shares of Common Stock. If the Company pays dividends in shares of Common Stock, the shares will be valued at a calculated per share market price. Dividends shall be subject to a make-whole through maturity upon any earlier conversion, redemption or amortization.
Market Price	For purposes of the amortization or dividend payments on the Preferred Stock as described above, the market price shall be equal to the average of the volume weighted average prices (the "VWAP") for the five lowest trading days, excluding the two lowest trading days of such period, ending on the 23rd trading day prior to the applicable payment date, subject to a "true up" based on the five lowest trading days during the twenty consecutive trading days ending on the trading day immediately prior to the applicable payment date.
Conversion	Holders may elect to convert shares of Preferred Stock into shares of Common Stock at the then-existing conversion price at any time. The initial conversion price is $44.40 per share of Common Stock, and is subject to certain adjustments, including an anti-dilution provision that reduces the conversion price upon the issuance of any Common Stock or securities convertible into Common Stock at an effective price per share less than the conversion price.
Redemption	If any shares of Preferred Stock remain outstanding on the maturity date after giving effect to any conversions on such date, the Company is required to redeem such preferred shares in cash in an amount equal to the then-existing conversion amount for each preferred share. Additionally, after a triggering event, the holders of the shares of Preferred Stock have the right, at their option, to require the Company to redeem all or a portion of the then outstanding preferred shares in cash at the triggering event redemption price. Triggering events include, among other events, certain breaches by the Company of its agreements, failures to pay amounts when due, failures to maintain any registration statement as required, failure to keep its Common Stock listed on any of the specified eligible markets (including the OTC Bulletin Board), and failure to keep a sufficient number of authorized shares reserved for issuance on conversion of the Preferred Stock or exercise of the 2011 Warrants. The triggering event redemption price will be the greater of (i) 125% of the then-existing conversion amount, or (ii) the product of the then-existing conversion amount and the greatest closing sales price of the Company's Common Stock beginning on the last trading day prior to the triggering event and ending on the date the holder of the Preferred Stock delivers a notice of redemption. In addition, the Company is required to pay to the holders of the Preferred Stock any additional make-whole amounts accrued at the date of the triggering event.

Liquidation preference	In the event of the Company's voluntary or involuntary dissolution, liquidation or winding up, each holder of Preferred Stock will be entitled to be paid a liquidation preference equal to the initial stated value of such holder's Preferred Stock of $44.40 per share, plus accrued and unpaid dividends and any other payments that may be due on such shares, before any distribution of assets may be made to holders of capital stock ranking junior to the Preferred Stock.
Voting rights	Shares of Preferred Stock will generally have no voting rights, except as required by law and except that the consent of holders of a majority of the outstanding. Preferred Stock will be required to amend the terms of the Preferred Stock.
Equity Conditions	The "Equity Conditions" will be satisfied on any date if: (i) on each day during the 30 trading days prior to such measurement date, all shares of Common Stock issued and issuable upon conversion of the Preferred Stock , as dividends on the Preferred Stock and upon exercise of the 2011 Warrants will have been issued or, to the extent not yet issued will be eligible for sale without restriction and without the need for registration under the securities laws; (ii) on each such day, the Common Stock is listed on The NASDAQ Capital Market, on one of several named alternative markets and, if subject to certain delisting proceedings or a failure to meet the maintenance standards of such an exchange, the Company must meet the minimum listing conditions of one of the other permitted markets (including the OTC Bulletin Board); (iii) on each such day, the Company has delivered Common Stock upon conversion by holders of Preferred Stock on a timely basis, as and if required; (iv) any applicable shares to be issued in connection with the determination may be issued in full without violating the ownership limitations described below or the rules of the Company's principal market (except that the ownership limitations will not prevent the Company from delivering Common Stock in amounts up to such limits); (v) during such period, the Company has made timely payments as required; (vi) there has been no triggering event or potential triggering event under the certificate of designations; (vii) the Company has no knowledge of any fact that would cause the shares of Common Stock issuable in connection with the Preferred Stock or Preferred Warrants not to be eligible for sale without restriction; (viii) the Company meets certain minimum average trading volume qualifications on its principal market (i.e., a $375,000 aggregate dollar volume over the applicable 20 trading days); and (ix) we are otherwise in material compliance with our covenants and representations in the related Preferred Stock transaction documents, including the certificate of designations.

The Company will not affect any conversion of the Series A Preferred Stock, nor shall a holder convert its shares of Series A Preferred Stock, to the extent that such conversion would cause the holder to have acquired, through conversion of the Preferred Stock or otherwise, beneficial ownership of a number shares of Common Stock in excess of 4.99% of the Common Stock outstanding immediately preceding the conversion.

While the Series A Preferred Stock is outstanding, we may not incur any additional indebtedness, with the exception of ordinary course equipment leases, obligations to vendors and similar exceptions. The Company is also prohibited from issuing additional or other capital stock or from issuing variable rate securities, without the consent of holders of the Series A Preferred Stock then outstanding.

The scheduled conversions and actual activity for the Series A Preferred Stock as of April 30, 2013 and 2012 are as follows:

Installement Date	Pre-delivery Date	Preferred Shares Redeemedable	Less: Preferred Shares Redeemed / Converted at 04/30/13	Balance of Preferred Shares at 04/30/13	Fair Value of Preferred Stock at 04/30/13
5/12/2012	4/10/2012	583	(583)	-	$ -
6/12/2012	5/10/2012	583	(583)	-	-
7/12/2012	6/8/2012	2	(2)	-	-
7/16/2012	6/15/2012	667	(667)	-	-
8/15/2012	7/13/2012	667	(667)	-	-
9/17/2012	8/14/2012	667	(667)	-	-
10/15/2012	9/12/2012	499	(112)	-	-
11/15/2012	10/12/2012		(112)	-	-
12/17/2012	11/12/2012		(110)	-	-
1/15/2013	12/14/2012		(28)	-	-
1/31/2013	1/31/2013		(138)	-	-
Convertible preferred stock		3,668	(3,668)	-	$ -

For the year ended April 30, 2013, 3,668 shares of Series A Preferred Stock were converted into 191,934 shares of Common Stock. The Company recorded interest expense of $762,738 related to these conversions. The interest expense was calculated as the difference between the fair value of the preferred shares converted and the fair value of the Common Stock on the date of the conversion. As of April 30, 2013 there were no shares of Series A Preferred Stock outstanding.

Installement Date	Pre-delivery Date	Preferred Shares Redeemedable	Less: Preferred Shares Redeemed / Converted at 4/30/12	Balance of Preferred Stock at 4/30/12	Fair Value of Preferred Stock at 4/30/12
1/12/2012	12/12/2011	583	(583)	-	$ -
2/13/2012	1/10/2012	583	(583)	-	-
3/12/2012	2/10/2012	583	(583)	-	-
4/12/2012	3/10/2012	583	(583)	-	-
5/12/2012	4/10/2012	583		583	622,565
6/12/2012	5/10/2012	583		583	622,565
7/12/2012	6/8/2012	2		2	2,136
Convertible preferred stock		3,500	(2,332)	1,168	$ 1,247,266

For the year ended April 30, 2012, 2,332 shares of Series A Preferred Stock were converted into 79,167 shares of Common Stock. The Company recorded interest expense of $530,943 related to these conversions. The interest expense was calculated as the difference between the fair value of the preferred shares converted and the fair value of the Common Stock on the date of the conversion

As of April 30, 2013 and 2012, respectively, the following is a summary of the non-cash interest related to the Series A Convertible Preferred Stock:

	Amount
Dividends paid in common stock	$ 309,938
Fair value of warrants issued with preferred shares	656,535
Interest expense on conversion of preferred stock	762,738
Non-cash interest expense as of April 30, 2013	$ 1,729,211

	Amount
Dividends paid in common stock	$ 81,890
Fair value of warrants issued with preferred shares	1,170,322
Interest expense on conversion of preferred stock	530,943
Fair value adjustment to preferred stock	678,661
Accrued dividends payable	21,479
Non-cash interest expense as of April 30, 2012	$ 2,483,295

NOTE F—INTANGIBLE ASSETS

The following table summarizes our intangible assets as of April 30, 2013:

Asset Category	Value Assigned	Weighted Average Amortization Period (in Years)	Impairments	Accumulated Amortization	Carrying Value (Net of Impairments and Accumulated Amortization)
Patents	$ 645,918	11.2	$ (27,279)	$ (258,499)	$ 360,140
License Rights	572,370	15.6	-	(117,969)	454,401
Trademarks	110,157	N/A	-	-	110,157
Total	$ 1,328,445		$ (27,279)	$ (376,468)	$ 924,698

The following table summarizes our intangible assets as of April 30, 2012:

Asset Category	Value Assigned	Weighted Average Amortization Period (in Years)	Impairments	Accumulated Amortization	Carrying Value (Net of Impairments and Accumulated Amortization)
Patents	$ 546,624	11.7	$ -	$ (233,989)	$ 312,635
License Rights	540,668	16.6	-	(89,429)	451,239
Trademarks	138,631	N/A	(29,534)	-	109,097
Total	$ 1,225,923		$ (29,534)	$ (323,418)	$ 872,971

For the years ended April 30, 2013 and 2012, the aggregate amortization expense on the above intangibles was approximately $55,845 and $45,183, respectively. The following table summarizes the aggregate amortization expense over the remaining life of the patents and license rights as of April 30, 2013:

Year ending April 30,	Amount
2014	$ 57,490
2014	57,490
2015	57,125
2016	56,549
2017	52,632
2018	51,446
Therafter	539,299
	$ 814,541

Patents and License Rights—The Company currently holds, has filed for, or owns exclusive rights to, US and worldwide patents covering 13 various methods and uses of our PFC technology. We capitalize amounts paid to third parties for legal fees, application fees and other direct costs incurred in the filing and prosecution of our patent applications. These capitalized costs are amortized on a straight-line method over their useful life or legal life, whichever is shorter.

The Company completed its annual impairment test of its patents and license rights during the fourth quarter of fiscal years 2013 and 2012. The Company wrote-off approximately $27,000 and $0 of capitalized costs for patent applications that were withdrawn or abandoned during the years ended April 30, 2013 and 2012, respectively. These asset impairment charges primarily related to the Company's topical formulations using alternative PFCs which were determined not to be a core component of the Company's development strategy.

Trademarks—The Company currently holds, or has filed for, trademarks to protect the use of names and descriptions of our products and technology. We capitalize amounts paid to third parties for legal fees, application fees and other direct costs incurred in the filing and prosecution of our trademark applications. These trademarks are evaluated annually in accordance with ASC 350, Intangibles – Goodwill and other. We evaluate (i) our expected use of the underlying asset, (ii) any laws, regulations, or contracts that may limit the useful life, (iii) the effects of obsolescence, demand, competition, and stability of the industry, and (iv) the level of costs to be incurred to commercialize the underlying asset.

The Company completed its annual impairment test of indefinite-lived intangible assets during the fourth quarter of fiscal years 2013 and 2012. During the fourth quarter of fiscal years 2013 and 2012, the Company wrote-off approximately $0 and $29,000, respectively, of capitalized costs for trademark applications that were withdrawn or abandoned during the year.

NOTE G—SEGMENT REPORTING

In the Company's operation of its business, management, including its chief operating decision maker, the Company's Chief Executive Officer, reviews certain financial information, including segmented internal profit and loss statements prepared on a basis not consistent with GAAP.

The Company operates in a single market consisting of the design, development, marketing, sales and support of its Dermacyte® cosmetic segment. The Company's commercial revenues are derived from sales of the Dermacyte line of topical cosmetic products in the United States and Europe. The Company does not engage in intercompany revenue transfers between segments.

The Company's management evaluates performance based primarily on revenues in the geographic locations in which the Company operates. Segment profit or loss for each segment includes certain sales and marketing expenses directly attributable to the segment and excludes certain expenses that are managed outside the reportable segments.

Costs that are identifiable are allocated to the segments that benefit. Allocated costs may include those relating to development and marketing of products and services from which multiple segments benefit, or those costs relating to services performed by one segment on behalf of other segments. Each allocation is measured differently based on the specific facts and circumstances of the costs being allocated. Certain other corporate-level activity is not allocated to the Company's segments, including costs of: human resources; legal; finance; information technology; corporate development and procurement activities; research and development; and employee severance.

The company has recast certain prior period amounts within this note to conform to the way it internally managed and monitored segment performance during the current fiscal year.

Net revenues and segment profit, classified by the Company's reportable segments are as follows:

	For the year ending April 30, 2013	2012
Product revenue		
United States	$ 46,016	$ 74,519
Europe	46,667	-
Latin America	-	26,000
Total product revenue	$ 92,683	$ 100,519

	For the year ending April 30, 2013	2012
Segment loss (income)		
United States	$ 86,921	$ 355,241
Europe	(28,328)	-
Latin America	-	(10,585)
Unallocated revenues		
Government grant revenue	(1,141,356)	(314,515)
Unallocated expenses		
General and administrative	3,567,980	5,697,884
Research and development	2,455,816	2,462,638
Restructuring expense	220,715	-
Loss on impairment of long-lived assets	27,279	29,534
Net interest and other expense	4,226,773	7,492,213
Net loss	$ 9,415,800	$15,712,410

Assets are not allocated to segments for internal reporting presentations. A portion of amortization and depreciation may be included with various other costs in an overhead allocation to each segment and it is impracticable for the Company to separately identify the amount of amortization and depreciation by segment that is included in the measure of segment profit or loss.

NOTE H—STOCKHOLDERS' EQUITY

Preferred Stock

Our Certificate of Incorporation authorizes us to issue 10,000,000 shares of $0.0001 par value preferred stock of which 9,992,500 are undesignated. On February 25, 2013, the Company filed a Certificate of Designation with the Secretary of State of the State of Delaware designating 2,100 shares of our authorized but unissued shares of preferred stock as Series B Convertible Preferred Stock.

Series B Convertible Preferred Stock

On February 22, 2013, the Company entered into a Securities Purchase Agreement (the "Purchase Agreement") with an institutional investor (the "Investor") providing for the issuance and sale by the Company (the "Offering") of $1.6 million of shares of the Company's Series B-1 convertible preferred stock (the "Series B-1 Stock") and $0.5 million of shares of the Company's Series B-2 convertible preferred stock (the "Series B-2 Stock" and, together with the Series B-1 Stock, the "Series B Preferred Stock") which are convertible into a combined total of 420,000 shares of common stock (the "Conversion Shares").

On February 27, 2013, the Company sold 2,100 units for net proceeds of approximately $1.9 million. Each unit sold consisted of (i) one share of the Company's Series B Preferred Stock and (ii) a Warrant representing the right to purchase 300 shares of Common Stock at a price of $1,000 per unit, less issuance costs. The shares of Series B Preferred Stock were immediately convertible upon issuance.

The table below sets forth a summary of the designation, powers, preferences and rights of the Series B Preferred Stock.

Dividends	No dividends shall be paid on shares of Preferred Stock.
Conversion	Holders may elect to convert shares of Preferred Stock into shares of Common Stock at the then-existing conversion price at any time. The initial conversion price is $5.00 per share of Common Stock, and is subject to certain adjustments, including an anti-dilution provision that reduces the conversion price upon the issuance of any Common Stock or securities convertible into Common Stock at an effective price per share less than the conversion price and a one-time price reset following the effectiveness of a reverse split of the Company's outstanding common stock.
Liquidation preference	In the event of the Company's voluntary or involuntary dissolution, liquidation or winding up, each holder of Preferred Stock will be entitled to be paid a liquidation preference equal to the initial stated value of such holder's Preferred Stock of $1,000 per share, plus accrued and unpaid dividends and any other payments that may be due on such shares, before any distribution of assets may be made to holders of capital stock ranking junior to the Preferred Stock.
Voting rights	Shares of Preferred Stock will generally have no voting rights, except as required by law and except that the consent of holders of a majority of the outstanding Preferred Stock will be required to amend the terms of the Preferred Stock.

The Company will not affect any conversion of the Series B Preferred Stock, nor shall a holder convert its shares of Series B Preferred Stock, to the extent that such conversion would cause the holder to have acquired, through conversion of the Preferred Stock or otherwise, beneficial ownership of a number shares of Common Stock in excess of 4.99% of the Common Stock outstanding immediately preceding the conversion.

For the year ended April 30, 2013, 1,113 shares of Series B Preferred Stock were converted into 222,600 shares of Common Stock. As of April 30, 2013 there were 987 shares of Series B Preferred Stock outstanding.

Common Stock

Our Certificate of Incorporation authorizes us to issue 400,000,000 shares of $0.0001 par value common stock. As of April 30, 2013 and 2012, there were 1,930,078 and 1,470,887 shares of common stock issued and outstanding.

Securities Purchase Agreement

On November 11, 2011, the Company and JP SPC 1 Vatea, Segregated Portfolio ("Vatea Fund") entered into Amendment No. 3 to the Securities Purchase Agreement (the "SPA") dated June 8, 2009. Under the third amendment, the parties deemed all milestones under the SPA achieved in exchange for a reduction in the purchase price for shares of the Company's common stock under the SPA to $57.00 per share.

On November 14, 2011, following entry into Amendment No. 3 to the SPA, the final closing (the "Final Closing") under the SPA occurred pursuant to which the Company delivered 140,351 shares of its common stock to the holders of the SPA against payment to the Company of an aggregate of $8,000,000. In connection with the Final Closing, the Company paid fees to Melixia SA for services provided as facilitating agent, which consisted of 561,404 shares of the Company's common stock. All issuances were made in reliance upon the exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended, and Rule 506 thereunder. As further discussed in Note D above, pursuant to the terms of the Note Purchase Agreement with Vatea Fund, the Company used the proceeds from the Final Closing to prepay the outstanding balance under the notes, including $2,367,574 of unaccreted final payment premium thereunder. Following the Final Closing, no securities remain available for purchase under the SPA and no outstanding balance remains under the Note Purchase Agreement.

Warrants

In connection with the issuance of 2,100 shares of Series B Preferred Stock described above, on February 27, 2013 the Company issued Class A and Class B warrants to purchase an aggregate of 630,000 shares of common stock. The warrants were issued at an initial exercise price equal to $10.00 and were immediately exercisable. The Class A warrants were issued with a six-year term and the Class B warrants were issued with a two-year term.

As further described in Note E above, on December 12, 2011, the Company issued warrants to purchase 39,415 shares of common stock as part of the Series A Convertible Preferred Stock Offering. The warrants were issued at an initial exercise price of $44.40. The Warrants were issued with a six-year term and are exercisable beginning December 12, 2012. In June 2012, the Company issued warrants to purchase 28,154 shares of Common Stock as part of the Series A Preferred Stock subsequent closing. The Warrants were issued with a six-year term and are exercisable beginning June 17, 2013. On February 21, 2013, the Company entered into an agreement with the holders of these warrants (the "Warrant Exchange Agreements") under which all of the outstanding warrants were cancelled in exchange for an aggregate of 20,000 shares of the Company's common stock and $380,000 in cash pursuant to Section 3(a)(9) under the Securities Act. In addition, the Warrant Exchange Agreements provide that the investors party thereto may not sell, offer to sell or contract to sell the shares of common stock issued thereunder prior to and including May 21, 2013.

As further described in Note D above, on June 29 and July 1, 2011, the Company issued warrants to purchase 6,652 and 101,996 shares of restricted common stock respectively, as part of the convertible note offering. The warrants were issued in three equal tranches with a weighted average exercise price of $50.00. The warrants were issued with a five-year term and were exercisable upon issuance.

The following table summarizes the Company's warrant activity for the years ended April 30, 2013 and 2012:

	Warrants		Weighted Average Exercise Price
Outstanding at April 30, 2011	**179,068**		**$ 78.00**
Issued	148,062		49.00
Exercised	(22,688)		32.40
Cancelled	-		-
Forfeited	(82,819)		73.60
Other	40,376	(1)	26.20
Outstanding at April 30, 2012	**261,999**		**$ 41.60**
Issued	658,154		6.69
Cancelled	(67,568)	(2)	44.40
Forfeited	(93,175)		38.40
Outstanding at April 30, 2013	**759,410**		**$ 11.00**

(1) The Company has warrants outstanding that contain anti-dilution clauses requiring a repricing in the event of subsequent equity sales. Subsequent to the closing of the Series A Preferred Stock Offering, the repricing of these warrants resulted in an increase of 40,376 potentially issuable shares and a $16.80 reduction in the weighted average exercise price of the Company's outstanding warrants.

(2) Represents the aggregate number of warrants cancelled under the Warrant Exchange Agreements.

During the year ended April 30, 2012, the Company received $733,629 and issued 22,688 shares of Common Stock in connection with the exercise of outstanding warrants.

1999 Amended Stock Plan

In October 2000, the Company adopted the 1999 Stock Plan, as amended and restated on June 17, 2008 (the "Plan"). Under the Plan, with the approval of the Compensation Committee of the Board of Directors, the Company may grant stock options, restricted stock, stock appreciation rights and new shares of Common Stock upon exercise of stock options. On September 30, 2011, the Company's stockholders approved amendment to the Plan which increased the amount of shares authorized for issuance under the Plan to 300,000, up from 40,000 previously authorized. As of April 30, 2013 the Company had 282,726 shares of Common Stock available for grant under the Plan .

The following table summarizes the shares available for grant under the Plan for the years ended April 30, 2013 and 2012:

	Shares Available for Grant
Balances, at April 30, 2011	12,192
Additional shares reserved	260,000
Options granted	(5,366)
Options cancelled/forfeited	13,162
Restricted stock granted	(10,474)
Restricted stock cancelled/forfeited	7,068
Balance, at April 30, 2012	276,582
Options granted	(1,595)
Options cancelled/forfeited	7,851
Restricted stock granted	(5,318)
Restricted stock cancelled/forfeited	5,206
Balance, at April 30, 2013	282,726

Plan Stock Options

Stock options granted under the Plan may be either incentive stock options ("ISOs"), or nonqualified stock options ("NSOs"). ISOs may be granted only to employees. NSOs may be granted to employees, consultants and directors. Stock options under the Plan may be granted with a term of up to ten years and at prices no less than fair market value for ISOs and no less than 85% of the fair market value for NSOs. Stock options granted generally vest over one to three years.

The following table summarizes the outstanding stock options under the Plan for the years ended April 30, 2013 and 2012 :

	Outstanding Options		
	Number of Shares	Weighted Average Exercise Price	Aggregate Intrinsic Value
Balances, at April 30, 2011	25,754	$ 90.80	
Options granted	5,366	$ 38.80	
Options exercised	(367)	$ 39.20	$ 3,227(1)
Options cancelled	(13,161)	$ 83.80	
Balance, at April 30, 2012	17,592	$ 81.20	
Options granted	1,595	$ 32.60	
Options cancelled	(7,851)	$ 106.40	
Balance, at April 30, 2013	11,336	$ 57.00	$ -(2)

(1) Amounts represent the difference between the exercise price and fair value of Oxygen Biotherapeutics' stock at the time of exercise.
(2) Amount represents the difference between the exercise price and $5.00, the closing price of Oxygen Biotherapeutics' stock on April 30, 2013, as reported on The NASDAQ Capital Market, for all in-the-money options outstanding.

The Company issued 0 and 7,333 shares of Common Stock from the cashless exercise of 0 and 40,000 stock options for the years ended April 30, 2013 and 2012, respectively.

The following table summarizes all options outstanding as of April 30, 2013:

	Options Outstanding at April 30, 2013		Options Exercisable and Vested at April 30, 2013	
Exercise Price	Number of Options	Weighted Average Remaining Contractual Life (Years)	Number of Options	Weighted Average Exercise Price
$4.60 to $38.40	4,868	8.4	3,128	$ 35.71
$38.60 to $57.80	2,725	5.7	2,506	$ 47.02
$59.40 to $100.00	2,418	5.5	2,352	$ 78.31
$101.60 to $138.00	1,325	6.4	1,325	$ 119.95
	11,336	6.9	9,311	$ 61.50

The following table summarizes options outstanding that have vested and are expected to vest based on options outstanding as of April 30, 2013:

	Number of Option Shares	Weighted Average Exercise Price	Aggregate Intrinsic Value (1)	Weighted Average Remaining Contractual Life (Years)
Vested	9,311	$ 61.50	$ -	6.4
Vested and expected to vest	11,113	$ 57.42	$ 20	6.8

(1) Amount represents the difference between the exercise price and $5.00, the closing price of Oxygen Biotherapeutics' stock on April 30, 2013, as reported on The NASDAQ Capital Market, for all in-the-money options outstanding.

We chose the "straight-line" attribution method for allocating compensation costs of each stock option over the requisite service period using the Black-Scholes Option Pricing Model to calculate the grant date fair value.

We used the following assumptions to estimate the fair value of options granted under our stock option plans for the years ended April 30, 2013and 2012:

	For the the year ended April 30	
	2013	2012
Risk-free interest rate (weighted average)	1.29%	1.79%
Expected volatility (weighted average)	79.62%	78.88%
Expected term (in years)	7	7
Expected dividend yield	0.00%	0.00%

Risk-Free Interest Rate	The risk-free interest rate assumption was based on U.S. Treasury instruments with a term that is consistent with the expected term of our stock options.
Expected Volatility	The expected stock price volatility for our common stock was determined by examining the historical volatility and trading history for our common stock over a term consistent with the expected term of our options.
Expected Term	The expected term of stock options represents the weighted average period the stock options are expected to remain outstanding. It was calculated based on the historical experience that we have had with our stock option grants.
Expected Dividend Yield	The expected dividend yield of 0% is based on our history and expectation of dividend payouts. We have not paid and do not anticipate paying any dividends in the near future.
Forfeitures	As stock-based compensation expense recognized in the statement of operations for the years ended 2013 and 2012 is based on awards ultimately expected to vest, it has been reduced for estimated forfeitures. ASC 718 requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Forfeitures were estimated based on our historical experience.

The weighted-average grant-date fair value of options granted during the years ended April 30, 2013 and 2012 was $32.60 and $38.80, respectively.

As of April 30, 2013, there were unrecognized compensation costs of approximately $13,000 related to unvested stock option awards that will be recognized on a straight-line basis over the weighted average remaining vesting period of 2.6 years.

Restricted Stock Grants

The following table summarizes the restricted stock grants under the Plan for the year ended April 30, 2013:

	Outstanding Restricted Stock Grants	
	Number of Shares	Weighted Average Grant Date Fair Value
Balances, at April 30, 2011	-	
Restricted stock granted	10,474	$ 41.40
Restricted stock vested	(1,602)	$ 41.60
Restricted stock cancelled	(866)	$ 40.00
Restricted stock forfeited	(6,201)	$ 40.80
Balance, at April 30, 2012	1,805	$ 43.80
Restricted stock granted	5,318	$ 35.00
Restricted stock vested	(4,465)	$ 32.60
Restricted stock cancelled	(741)	$ 36.20
Balance, at April 30, 2013	1,917	$ 48.40

For the year ended April 30, 2013, the Company recorded $162,991 as compensation expense for these restricted stock grants. As of April 30, 2013, there were unrecognized compensation costs of approximately $6,607 related to the non-vested restricted stock grants that will be recognized on a straight-line basis over the remaining vesting period of 1 year.

NOTE I—RESTRUCTURING EXPENSE

In May 2012, the Company decided to consolidate its operations and relocate its research and development function to North Carolina from Costa Mesa, California. To allow for this transition period, all existing development work had been completed and all of the manufacturing of the Company's PFC-based products had been transferred to contract manufacturers. As part of these initiatives, the Company terminated all related research and development activities and a workforce reduction was implemented. In September 2012, the Company entered into a sublease agreement with an unrelated third party that extends throughout the remaining term of the existing lease for the vacated facility.

The Company incurred a restructuring expense of $220,715 related to the closing for the year ended April 30, 2013. The Company may incur additional costs as a result of the restructuring, but it does not expect these costs to be significant beyond April 30, 2013. The following table summarizes the impact of the work force reductions and other associated costs on operating expenses and payments for the year ended April 30, 2013, and the liability remaining on the balance sheet as of April 30, 2013.

	Charges Incurred During the Year Ended April 30, 2013	Amounts Paid Through April 30, 2013	Amounts Accrued at April 30, 2013
Future lease obligations, net of sublease revenue	$ 134,984	$ 43,496	$ 98,388
Employee severance, benefits and related costs for work force reductions	53,991	53,991	-
Other exit costs	31,740	31,740	-

The Company recorded all restructuring expenses as operating expenses on the statement of operations. All restructuring costs were paid by April 30, 2013, with the exception of approximately $98,000 of future lease obligations, net of sublease revenue.

During the year ended April 30, 2013, the Company recognized an impairment loss of approximately $12,000 related to the disposal lab equipment as a result of the decision to discontinue internal manufacturing and development activities which is not recorded in the table above.

NOTE J—COMMITMENTS AND CONTINGENCIES

Operating Leases

The Company leases its office space under an operating lease that includes fixed annual increases and expires in February 2016. Total rent expense was $151,125 and $286,536 for the year ended April 30, 2013 and 2012, respectively.

The future minimum payments for the long-term, non-cancelable lease are as follows:

Year ending April 30,	
2014	$107,946
2015	111,171
2016	94,917
	$ 314,034

Agreement with Virginia Commonwealth University

In May 2008 the Company entered into a license agreement with Virginia Commonwealth University ("Licensor", "VCU") whereby it obtained a worldwide, exclusive license to valid claims under three of the Licensor's patent applications that relate to methods for non-pulmonary delivery of oxygen to tissue and the products based on those valid claims used or useful for therapeutic and diagnostic applications in humans and animals. The license includes the right to sub-license to third parties. The term of the agreement is the life of the patents covered by the patent applications unless the Company elects to terminate the agreement prior to patent expiration. Under the agreement the Company has an obligation to diligently pursue product development and pursue, at its own expense, prosecution of the patent applications covered by the agreement. As part of the agreement, the Company is required to pay to VCU nonrefundable payments upon achieving development and regulatory milestones. As of April 30, 2012, the Company has not met any of the developmental milestones.

The agreement with VCU also requires the Company to pay royalties to VCU at specified rates based on annual net sales derived from the licensed technology. Pursuant to the agreement, the Company must make minimum annual royalty payments to VCU totaling $70,000 as long as the agreement is in force. These payments are fully creditable against royalty payments due for sales and sublicense revenue earned during the fiscal year as described above. This fee is recorded as an other current asset and is amortized over the fiscal year. Amortization expense was $70,000 for the years ended April 30, 2013 and 2012.

Litigation

The Company is subject to litigation in the normal course of business, none of which management believes will have a material adverse effect on the Company's financial statements.

On August 30, 2011, Tenor Opportunity Master Fund Ltd., Aria Opportunity Fund, Ltd., and Parsoon Opportunity Fund, Ltd. (collectively, "Tenor") filed a lawsuit in the United States District Court for the Southern District of New York alleging that a right of first offer held by Tenor was breached in connection with our June 2011 financing. The complaint sought compensatory damages, attorneys' fees and costs. Discovery was completed and motions for summary judgment from both sides were filed, Plaintiffs filed on the matter of breach and we filed on the matter of damages. On July 11, 2012 the court entered an order on both summary judgment motions. The court found in favor of Plaintiff's motion, holding that we did breach the agreement. The court did not find in favor of our motion regarding damages. The matter was then set to move to trial for a jury to determine what, if any, damages Plaintiff's suffered from our breach of the agreement. The trial was scheduled to begin on October, 10, 2012. On October 3, 2012 the court granted a motion from Tenor to continue the trial until March 7, 2013.

However, on February 19, 2013, the Company and Tenor reached a tentative oral settlement of this litigation, and executed a written settlement agreement, effective March 14, 2013, under which the litigation was dismissed with prejudice. The settlement agreement provided that the parties will settle the matter for the Company's payment of $600,000 in cash, plus interest accrued thereon from the date of the executed settlement agreement at the rate of fifteen percent (15%) per year, payable in six quarterly installments commencing on the date the parties executed the written settlement agreement. The settlement agreement also provides that upon the Company completing financings in certain amounts, if the settlement amount is not fully paid at such time, a portion of the settlement payment schedule will be accelerated.

The Company has accrued $500,000 as a liability related to this claim as of April 30, 2013.

Contingent Liabilities Related to Internal Revenue Code Section 409A

In November, 2010, management conducted an independent review of certain option grants made by the Company between February 1998 and April 2009. This voluntary review was not in response to any governmental investigation. During the course of the Company's review, management identified certain options granted in prior years that may have been non-compliant with Section 409A ("Section 409A") of the Internal Revenue Code of 1986, as amended, including options granted with an exercise price below fair market value on the date of grant and options that were modified such that they may have become non-compliant with Section 409A.

In February 2011, after management conducted a preliminary, limited scope review of certain of the Company's stock option granting practices, the Audit Committee commenced a voluntary, independent investigation of the Company's historical stock option granting practices and related accounting during the period from February 1998 through April 2009. The Company's outside legal counsel assisted the Audit Committee in this investigation.

The primary adverse tax consequence of Section 409A non-compliance is that the holders of non-compliant options are taxed on the value of such options as they vest, and annually thereafter until they are exercised. In addition to ordinary income taxes, holders of non-compliant options are subject to a 20% penalty tax under Section 409A (and, as applicable, similar excise taxes under state laws). Because virtually all holders of stock options granted by the Company were not involved in or aware that the pricing and/or modification of their options raised these issues, the Company intends to take actions to address certain of the adverse tax consequences that may apply to these holders. In addition, on March 17, 2011 the Company entered into indemnification agreements with its executive officers that indemnify those officers from potential Section 409A tax liabilities arising from their prior option awards.

As of January 31, 2013, all of the potentially non-compliant options were either cancelled or expired unexercised. The Company evaluated the contingent liability and concluded that the likelihood of an asserted claim is no longer probable and fails to satisfy the accrual criteria in accordance with ASC 450. During the year ended April 30, 2013, the Company recorded a credit of approximately $532,500 against general and administrative expense in the statement of operations and reduced its accrual for the potential liability to $0.

NOTE K—401(k) BENEFIT PLAN

The Company sponsors a 401(k) Retirement Savings Plan (the Plan) for all eligible employees. Full-time employees over the age of 18 are eligible to participate in the Plan after 90 days of continuous employment. Participants may elect to defer earnings into the Plan up to the annual IRS limits and the Company provides a matching contribution up to 5% of the participants' annual salary in accordance with the Plan documents. The Plan is managed by a third-party trustee. For the periods ended April 30, 2013 and 2012, the Company recorded $46,847 and $52,217 respectively, for matching contributions expense.

NOTE L—INCOME TAXES

The Company has not recorded any income tax expense or benefit for the periods ended April 30, 2013 and 2012 due to its history of net operating losses.

The reconciliations of income tax expenses (benefit) at the statutory federal income tax rate of 34% for the periods ended April 30, 2013 and 2012 are as follows:

	2013	2012
U.S Federal tax benefit at statutory rate	(3,201,372)	(5,342,219)
State income tax benefit, net of federal benefit	(356,452)	-
Nondeductible interest	1,592,027	1,458,660
Other nondeductible	47,652	22,227
Other, including effect of tax rate brackets	132,806	(95,003)
Change in valuation allowance	1,785,339	3,956,335
	-	-

The components of deferred tax assets and deferred tax liabilities for 2013 and 2012 are as follows:

Deferred Tax Assets (Liabilities)	2013	2012
Net operating Loss Carryforwards	27,446,605	24,172,571
Interest	-	1,511,360
Accruals and other	336,631	244,207
Depreciation and amortization	16,766	(32,473)
Valuation allowance	(27,800,002)	(25,895,665)
Net Deferred Tax Assets (Liabilities)	-	-

At April 30, 2012 the Company had Federal and State net operating loss carryforwards of approximately $71.0 million and $54.0 million available to offset future federal and state taxable income, respectively. The net operating loss carryforwards began to expire in 2011 and 2016 respectively and valuation allowances have been provided.

At April 30, 2013 the Company had Federal and State net operating loss carryforwards of approximately $74.4 million and $59.3 million available to offset future federal and state taxable income, respectively. The net operating loss carryforwards began to expire in 2011 and 2016 respectively and valuation allowances have been provided.

Utilization of the net operating loss carryforwards may be subject to an annual limitation due to the ownership percentage change limitations provided by the Internal Revenue Code of 1986 and similar state provisions. The annual limitations may result in the expiration of the net operating losses before utilization.

The Company adopted ASC 740-10 on May 1, 2007. As of April 30, 2013, it had no unrecognized tax benefits and does not expect any material change during the next year. As of April 30, 2013, the Company has not recorded any interest or penalties under this pronouncement.

Management has evaluated all other tax positions that could have a significant effect on the financial statements and determined the Company had no uncertain income tax positions at April 30, 2013.

The Company files U.S. and state income tax returns with varying statutes of limitations. The tax years 1998 and forward remain open to examination due to the carryover of unused net operating losses or tax credits.

NOTE M—SUBSEQUENT EVENTS

On May 10, 2013, the Company filed a Certificate of Amendment to the Company's Certificate of Incorporation to effect a reverse stock split of the Company's common stock at a ratio of twenty-to-one with the Secretary of State of the State of Delaware. The Amendment did not change the number of authorized shares, or the par value, of the Company's common stock. The Amendment provides that every twenty shares of the Company's issued and outstanding common stock were automatically combined into one issued and outstanding share of the Company's common stock.

The Amendment was approved by the stockholders of the Company at a special meeting of stockholders held on April 26, 2013, with the ratio of the Reverse Stock Split to be not less than ten-to-one and not more than fifty-to-one, as determined by the Company's Board of Directors. The Company's Board of Directors approved the Amendment with the twenty-to-one ratio on the same date.

ITEM 9—CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A—CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Our disclosure controls and procedures, as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act, are designed to ensure that information required to be disclosed in reports filed or submitted under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in rules and forms adopted by the Securities and Exchange Commission, or SEC, and that such information is accumulated and communicated to management, including the Chief Executive Officer and the Chief Financial Officer, to allow timely decisions regarding required disclosures.

Management, with the participation of our Interim Chief Executive Officer and our Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this Form 10-K. Based on such evaluation, our Interim Chief Executive Officer and our Chief Financial Officer concluded that, as of April 30, 2013, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Controls over Financial Reporting

From time to time, we may review and make changes to our internal control over financial reporting that are intended to enhance the effectiveness of our internal control over financial reporting and which do not have a material effect on our overall internal control over financial reporting. During the three months ended April 30, 2013, we made no changes to our internal control over financial reporting, as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act, that we believe materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting, as defined in rules promulgated under the Exchange Act, is a process designed by, or under the supervision of, our Chief Executive Officer and Chief Financial Officer and affected by our Board of Directors, management and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. Internal control over financial reporting includes those policies and procedures that:

- Pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets;
- Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that our receipts and expenditures are being made only in accordance with authorizations of our management and our Board of Directors; and
- Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on our financial statements.

Internal control over financial reporting cannot provide absolute assurance of achieving financial reporting objectives because of its inherent limitations. Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting also can be circumvented by collusion or improper override. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process, and it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

Our management assessed the effectiveness of our internal control over financial reporting as of April 30, 2013. In making its assessment, management used the criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission, or COSO. Based on its assessment, management has concluded that our internal control over financial reporting was effective as of April 30, 2013.

ITEM 9B—OTHER INFORMATION

There is no information to report under this item for the quarter ended April 30, 2013.

PART III

Directors

The following table sets forth information as to each of our directors:

Name	Age	Position with Oxygen Biotherapeutics, Inc.	Director Since
Ronald R. Blanck, DO	72	Chairman	December 2009
William A. Chatfield	62	Director	October 2009
Anthony DiTonno	65	Director	December 2011
Gregory Pepin	30	Director	August 2009
Chris A. Rallis	60	Director	December 2011

Ronald R. Blanck, DO has served as a director since December 2009 and as Chairman since September 2011. Dr. Blanck has served as chairman of Martin, Blanck & Associates, a federal health services consulting firm based in Falls Church, VA since January 2010. He began his military career in 1968 as a medical officer and battalion surgeon in Vietnam, retiring 32 years later as a Lieutenant General and Surgeon General of the U.S. Army and commander of the U.S. Army Medical Command. He also served as commander of Walter Reed Medical Center and the North Atlantic Region Medical Command. His background also includes serving as president of the University of North Texas Health Science Center at Fort Worth.

Dr. Blanck brings to the Board an intimate knowledge of our military system and the unique health care challenges they face. As a director, Dr. Blanck has provided invaluable assistance to the Board as our company strives to bring innovative medical products that address the needs of our wounded military personnel. As chairman, he provides strategic leadership and focus to the Board and to management.

Dr. Blanck serves on the Corporate Governance and Nominating Committee, the Compensation Committee, and as chair of the Audit Committee.

William A. Chatfield has served as a director since October 2009. Mr. Chatfield most recently served as the Director of the U.S. Selective Service System from November of 2004 to May of 2009, having been nominated by President George W. Bush and confirmed by the U.S. Senate. He was directly responsible to the President of the United States for the management of the Selective Service System. His background includes more than 30 years of experience working with the executive and legislative branches of the Federal government, such as the Department of Defense, the Department of the Interior, and the Civil Aeronautics Board, as well as serving as an Intelligence Officer with the U.S. Marine Corps.

We believe that Mr. Chatfield's unique background working within the political framework of our government benefits the Board and the Corporate Governance and Nominating Committee. Mr. Chatfield's qualifications and experience also assist us in developing pathways for additional sources of funding through grants and other government sponsored programs.

Mr. Chatfield serves on the Audit Committee and as chair of the Corporate Governance and Nominating Committee.

Anthony A. DiTonno has served as a director since December 2011. Since February 2013, Mr. DiTonno has served as Chief Executive Officer of Avantis Medical Systems, Inc., a medical device company that develops and manufactures catheter-based endoscopic devices. From April 2003 until December 2011, Mr. DiTonno was President and Chief Executive Officer of Neurogesx Inc., a biopharmaceutical company based in the San Francisco Bay area. During his time at Neurogesx, Mr. DiTonno also served on its board of directors. Mr. DiTonno has funded companies through a variety of financial arrangements including private and public financings, partnerships and debt. He has also been successful in gaining regulatory approvals in both the United States and European Union. Previously, he was Executive Vice President of Marketing and Sales at Enteric Medical Technologies Inc., which was acquired by Boston Scientific Company; President and Chief Executive Officer of Lifesleep Systems, Inc.; and Vice President and General Manager of Olcassen Pharmaceuticals, which was sold to Watson Laboratories. Early in his career, he held a variety of positions of increasing responsibility at Rorer Group, Inc. (Rhône Poulenc Rorer) and Wyeth Laboratories. Mr. DiTonno received an M.B.A. from Drexel University and a B.S. in Business Administration from St. Joseph's University.

We believe that Mr. DiTonno's extensive corporate experience and financial background qualifies him to serve on our Board and provides valuable insight to the company. Mr. DiTonno was recommended by a third-party director search firm engaged by the Corporate Governance and Nominating Committee to identify and recruit candidates for consideration as director nominees.

Gregory Pepin has served as a director since August 2009. From July 2008 until April 2010, he was engaged as a Senior Vice President at Melixia SA ("Melixia"), an investment management company based in Switzerland. In that position he participated in the formation of Vatea Fund, one of our principal stockholders, and has served as a Managing Director of that fund since June 2009. In May 2010, he co-founded EOS Investment, Ltd. ("EOS"), an investment company based in the Cayman Islands, which serves as investment manager of Vatea Fund, and as investment manager and managing director of OXBT Fund, a fund which holds convertible notes and warrants issued by us. EOS serves as the investment manager and the managing director for two other funds that are not affiliated with us. In May 2010, he co-founded Independent Wealth Management, SA, an investment management company based in Switzerland, and he has served as a financial analyst for the company since that time. From September 2005 through the end of June 2008, Mr. Pepin was employed as a consultant in finance and insurance by Winter & Associates located in Paris, France. In July 2005, Mr. Pepin earned the degree of Master of Science and Economy, Finance and Actuaries, from HEC Lausanne.

Mr. Pepin's investment management experience and skills qualify him to serve on our Board, and provide the Board with valuable insight into the investment community.

Mr. Pepin serves as chair of the Compensation Committee and as a member of the Corporate Governance and Nominating Committee.

Chris A. Rallis has served as a director since December 2011. Mr. Rallis is an Executive-in-Residence at Pappas Ventures, a life science venture capital firm based in Durham, NC. From April 2006 until June 2007, he was President and Chief Executive Officer of ImmunoBiosciences, Inc., a vaccine technology company formerly located in Raleigh, NC. He has served as a consultant for Duke University and Panacos Pharmaceuticals, Inc., and is the former President and Chief Operating Officer of Triangle Pharmaceuticals, Inc. ("Triangle"), which was acquired by Gilead Sciences in January 2003 for approximately $465 million. While at Triangle, he participated in 11 equity financings generating gross proceeds of approximately $500 million. He was also primarily responsible for all business development activities which included a worldwide alliance with Abbott Laboratories and the in-licensing of 10 compounds. Earlier, he served in various business development and legal management roles with Burroughs Wellcome, Co. Mr. Rallis serves on the boards of Aeolus Pharmaceuticals and Adherex Technologies and chairs the Audit Committee of both boards. He received his A.B. degree in economics from Harvard College and a J.D. from Duke University.

We believe that Mr. Rallis' strong background in raising capital, business development and operations developed through his leadership at other companies operating within the biomedical industry qualifies him to serve on our Board. Mr. Rallis was recommended by our outside counsel to the Corporate Governance and Nominating Committee for consideration as a director nominee.

Mr. Rallis serves on the Audit Committee.

Executive Officers

The names of our current executive officers are listed below. Our executive officers are appointed by our Board of Directors to hold office until their successors are appointed.

Name	Age	Position
Michael B. Jebsen, CPA	42	President, Interim Chief Executive and Chief Financial Officer
Charles L. Pamplin III, M.D.	64	Chief Medical Officer

Michael B. Jebsen joined Oxygen as our Accounting Manager in April 2009, and was elected Chief Financial Officer, Executive Vice President Finance and Administration, and Corporate Secretary in August 2009 and was appointed as Interim Chief Executive Officer in August 2011. Before joining us, he was an auditor with Grant Thornton, LLP from July 2003 through December 2005 and from April 2008 through April 2009. In addition, he held various positions, including Chief Ethics Officer, Senior Internal Auditor, and Senior Financial Analyst with RTI International, a non-profit research and development organization, from January 2006 to February 2008. Mr. Jebsen holds a Master of Science in Accounting from East Carolina University and is a Certified Public Accountant, licensed in North Carolina.

Col. Charles L. Pamplin III, M.D. joined Oxygen as our Chief Medical Officer in May 2013. Before joining us, Dr. Pamplin was president of Medicines Oracle, a medical consulting company to the pharmaceutical industry from January 2008 through May 2013 and acting Chief Science Officer at Avidas Pharmaceuticals LLC, a private pharmaceutical company committed to age-related disorders and diseases from January 2010 through May 2013 . Prior to that, from May 2000 through December 2007, Dr. Pamplin was Vice President of Clinical Development at King Pharmaceuticals, Inc., a pharmaceutical company ("King Pharmaceuticals"), which was acquired by Pfizer Inc. From May 2000 to March 2007 he served as Vice President, Medical Affairs, at King Pharmaceuticals. Dr. Pamplin contributed to the development of various adenosine receptor agonists, antagonists, and allosteric modifiers at King Pharmaceuticals. Prior to joining King Pharmaceuticals, he was Vice President of Quintiles Inc.'s ("Quintiles") Internal Medicine Business Unit. He managed numerous medical specialty programs at Quintiles including women's health, urology, and dermatology.

Dr. Pamplin is a licensed and board certified physician and a retired U.S. Army Colonel (Medical Corps), specializing in Internal Medicine, Clinical Pharmacology, Business Management, and Medical Informatics. During his 22 year distinguished military career he contributed to the development of anti-malarial, antileishmanial, and chemical defense drugs and devices. He developed prophylactic and therapeutic drug treatments and strategies. In addition, he has received several military awards and honors, including the Legion of Merit, the National Defense Service Medal, and the Army Achievement Medal among others.

After receiving his medical degree from the University of Maryland, he completed his internship and residency in Internal Medicine at Walter Reed Medical Center and his post-graduate training in Clinical Pharmacology at Walter Reed Institute of Research, in Washington, D.C. He is a graduate of the Command and General Staff College. He received his undergraduate degree from Wake Forest University .

Code of Ethics

We have adopted a Code of Ethics applicable to all of our officers, directors and employees, including our Chief Executive Officer and Chief Financial Officer, a copy of which will be provided to any person, free of charge, upon request. A request for a copy of the Code of Ethics should be in writing and sent to Oxygen Biotherapeutics, Inc., Attn: Corporate Secretary, ONE Copley Parkway, Suite 490, Morrisville, North Carolina 27560.

Audit and Compliance Committee

We have a separately designated standing Audit and Compliance Committee established in accordance with Section 3(a)(58)(A) of the Exchange Act. The Audit and Compliance Committee's principal responsibilities include:

- reviewing, evaluating, and discussing our financial statements and other financial information prepared on our behalf;
- selecting, retaining, and monitoring the independence and performance of our outside auditors, including overseeing the audits of our financial statements and approving any non-audit services;
- assisting the Board in fulfilling its oversight responsibilities, primarily through overseeing management's conduct of our accounting and financial reporting process and systems of internal accounting and financial controls;
- providing an avenue of communication among the outside auditors, management and the Board; and
- preparing an annual report of the Audit Committee for inclusion in our proxy statement.

The members of the Audit and Compliance Committee are Messrs. Blanck, Chatfield and Rallis. Mr. Blanck serves as chair of the Audit Committee. The Board of Directors has determined that Messrs. Blanck and Rallis each qualify as an "audit committee financial expert" as defined by applicable SEC rules. The Audit Committee met four times in fiscal 2013.

Section 16(a) Beneficial Ownership Reporting Compliance

The members of our Board of Directors, our executive officers, and persons who hold more than 10% of our outstanding common stock are subject to the reporting requirements of Section 16(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), which requires them to file reports with respect to their ownership of our common stock and their transactions in such common stock.

Based solely upon our review of the Section 16(a) reports in our records for fiscal 2013 transactions in our common stock, we believe that during the fiscal year ended April 30, 2013 the Company's officers, directors and greater than 10% owners timely filed all reports they were required to file under Section 16(a), except that: 8 reports, covering a total of 8 transactions, were filed late by Mr. Jebsen and 1 report covering 1 transaction was filed late by each of Messrs. Blanck, Chatfield, Rallis and DiTonno.

ITEM 11— EXECUTIVE COMPENSATION

Summary of Compensation

The following table provides certain summary information concerning compensation earned for services rendered in all capacities to us for the fiscal years ended April 30, 2013 and 2012, by our interim chief executive officer and chief financial officer (the "Named Executive Officer"). We had no other executive officers during any part of fiscal 2013. This information includes the dollar amount of base salaries, bonus awards, stock options and all other compensation, if any, whether paid or deferred.

Summary Compensation Table

Name and Principal Position	Year	Salary ($)	Non-Equity Incentive Plan (2) ($)	Bonus ($)	Stock Awards(1) ($)	Option Awards(1) ($)	All Other Compensation(3) ($)	Total ($)
Michael B. Jebsen, CPA(4)	2013	330,000	—	—	60,308(5)	—	9,600	392,845
President, Interim Chief	2012	295,000	105,000	—	16,856(5)	—	9,600	426,456
Executive and Chief Financial Officer								

(1) The amounts in these columns reflect the aggregate grant date fair value of awards granted during the year computed in accordance with Financial Accounting Standards Board ASC Topic 718, Compensation — Stock Compensation. The assumptions made in determining the fair values of our stock and option awards are set forth in Note H to our Financial Statements.

(2) These payments were made based on achievement of milestones in accordance with Mr. Jebsen's employment agreement, which is described below in the section entitled "Employment and other Contracts."

(3) The amounts in this column represent payments for automobile allowances issued in accordance with the terms of Mr. Jebsen's employment agreement, which is described below in the section entitled "Employment and other Contracts."

(4) Mr. Jebsen began serving as our Interim Chief Executive Officer, effective August 24, 2011. In connection with such service, Mr. Jebsen receives additional compensation of $10,000 per month.

(5) Represents the grant date fair value of the shares issued in accordance with the terms of Mr. Jebsen's employment agreement, which is described below in the section entitled "Employment and other Contracts."

Option Grants

In September 1999, our Board of Directors approved the 1999 Amended Stock Plan, which provided for the granting of incentive and nonstatutory stock options to employees and directors to purchase up to 13,333 shares of our common stock. The 1999 Amended Stock Plan was approved by stockholders on October 10, 2000. Options granted under the 1999 Amended Stock Plan are exercisable at various dates up to four years and have expiration periods of generally ten years. On June 17, 2008, our stockholders approved an amendment and restatement to the 1999 Amended Stock Plan to increase the number of shares of common stock available for awards under the plan from 13,333 to 40,000, to increase the maximum number of shares covered by awards granted under the 1999 Amended Stock Plan to an eligible participant from 13,333 to 16,667 shares, and to make additional technical changes to update the plan. On September 30, 2011, our stockholders approved an amendment to the 1999 Amended Stock Plan, to increase the number of shares of common stock available for awards under the plan from 40,000 to 300,000. Persons eligible to receive grants under the 1999 Amended Stock Plan consist of all of our employees, including executive officers and employee directors. As of April 30, 2013 and 2012, we had 11,336 and 17,592 outstanding options under the 1999 Amended Stock Plan, respectively. As of April 30, 2013 and 2012, there were 282,726 and 276,582, respectively, options available for grant under the 1999 Amended Stock Plan.

In addition, we have issued options outside the 1999 Amended Stock Plan; however at April 30, 2013 there were no options outstanding that were issued outside the 1999 Amended Stock Plan.

The following table summarizes certain information as of April 30, 2013 concerning the stock options and restricted stock granted to the Named Executive Officer during the fiscal year ended April 30, 2013. No stock appreciation rights or long-term performance awards had been granted as of April 30, 2013.

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Name and Principal Position	Grant Date	Number of Securities Underlying Options[1] (#)	Exercise Price of Options ($)	Number of Securities Underlying Restricted Stock Grant (#)	Grant Date Fair Value of Option and Restricted Stock Awards[2] ($)
Michael B. Jebsen, CPA	5/1/2012	—	—	430[3]	15,308
President, Interim Chief Executive and Chief Financial Officer	6/15/2012	—	—	1,223[4]	45,000

(1) Each option listed in the table immediately vests and is exercisable over a ten-year period.

(2) The amounts in this column reflects the aggregate grant date fair value of awards granted during the year computed in accordance with Financial Accounting Standards Board ASC Topic 718, Compensation — Stock Compensation. The assumptions made in determining the fair values of our option awards are set forth in Note H to our Financial Statements.

(3) The shares underlying these grants vest monthly over a 12 month period.

(4) The shares underlying these grants vest monthly immediately.

Outstanding Equity Awards

The following table provides information about outstanding equity awards held by the Named Executive Officer as of April 30, 2013.

Outstanding Equity Awards at 2013 Fiscal Year-End

	Option Awards[1]				Stock Awards	
Name and Principal Position	Number of securities underlying unexercised options (Exercisable) (#)	Number of securities underlying unexercised options (Unexercisable) (#)	Option exercise price ($/Sh)	Option expiration date	Number of shares or units of stock that have not vested (#)	Market value of shares or units of stock that have not vested ($)
Michael B. Jebsen, CPA	34[2]		123.00	7/20/2019	—	—
President, Interim Chief Executive and Chief Financial Officer	167		117.00	8/12/2019		
	34		127.60	9/1/2019		
	34		117.00	10/1/2019		
	34		129.00	11/1/2019		
	34		111.60	12/1/2019		
	34		115.80	1/1/2020		
	34		114.60	2/1/2020		
	34		102.00	3/1/2020		
	34		100.00	4/1/2020		
	34		100.00	5/1/2020		
	34		59.40	6/1/2020		
	34		57.80	7/1/2020		
	34		54.80	8/1/2020		
	167		55.80	8/13/2020		
	34		60.80	9/1/2020		
	34		50.60	10/1/2020		
	34		42.20	11/1/2020		
	34		43.00	12/1/2020		
	625		43.00	12/1/2020		
	34		38.40	1/1/2021		
	34		41.00	2/1/2021		
	34		38.60	3/1/2021		
	34		36.80	4/1/2021		

(1) Except as otherwise noted, the option awards reflected in these columns vested immediately on the date of grant. The date of grant for each of these options is the date 10 years prior to the expiration date reflected in this table.
(2) These options were granted with the following vesting scedule: 100% on the first anniversary of the grant date.

Employment and other Contracts

Pursuant to the employment agreement dated May 19, 2011 with Michael Jebsen (the "Employment Agreement"), Mr. Jebsen will continue to receive as

compensation (i) an annual base salary of $210,000, (ii) a fixed monthly automobile allowance of $800, and (iii) participation in medical insurance, dental insurance, and other benefit plans on the same basis as our other officers. Under the Employment Agreement, Mr. Jebsen will now receive an annual cash bonus consisting of 50% of his base salary, based on 100% achievement of annual goals (with no cap on the bonus for greater than 100% achievement of goals). In addition to the foregoing, Mr. Jebsen will now receive annual grants totaling 430 shares of our restricted common stock, vesting over a 12-month period, of which 180 shares will only vest so long as he continues serving as our Corporate Secretary. These awards of restricted stock replace awards of stock options that were provided under Mr. Jebsen's prior agreement.

The Employment Agreement (i) was to be effective for a one-year term, and automatically renewed for additional one-year terms, unless the Employment Agreement is terminated in advance of renewal or either party gave notice at least 90 days prior to the end of the then current term of an intention not to renew, and (ii) provided that we would indemnify Mr. Jebsen against any adverse tax consequences in connection with the Employment Agreement or any prior employment agreement that may result from any non-compliance with Section 409A of the Internal Revenue Code of 1986, as amended (the "IRC").

In addition, the Employment Agreement provided that if Mr. Jebsen is terminated without cause, if Mr. Jebsen terminated his employment for good reason, or if we elected not to renew the Employment Agreement, Mr. Jebsen would be entitled to receive (i) one-year of base salary, (ii) an amount equal to the annual bonus that he would have received had 100% of goals been achieved, and (iii) one-year of COBRA reimbursements or benefits payments, as applicable. Mr. Jebsen's entitlement to these payments is conditioned upon his execution of a release of claims.

For purposes of the Employment Agreement: (i) "cause" includes (a) a material breach of the Employment Agreement by Mr. Jebsen, (b) material misappropriation of our property, (c) material failure to comply with our policies, (d) use of illegal drugs or use of alcohol in a manner that interferes with the performance of Mr. Jebsen's duties, (e) dishonest or illegal action that is materially detrimental to us, and (f) failure to disclose material conflicts of interest, and (ii) "good reason" includes (a) a material reduction in base salary, (b) a material reduction of Mr. Jebsen's authority, duties or responsibility, (c) relocation of Mr. Jebsen's employment by more than 50 miles, (d) a material breach of the Employment Agreement by us, or (e) a change in control of us, which means a change in the ownership or effective control of us or a change in the ownership of a substantial portion of our assets (each as defined in the Internal Revenue Service regulations under Section 409A of the IRC); provided, however, that the replacement of two or more of our directors within a 12-month period by new directors not endorsed by a majority of the Board prior to their appointment will also constitute a change in control.

On March 21, 2011, we entered into an indemnification agreement with Mr. Jebsen, which provides that in respect of acts or omissions occurring prior to such time as Mr. Jebsen ceases to serve as our officer Mr. Jebsen will receive (i) indemnification and advancement of expenses to the extent provided under our Certificate of Incorporation and to the fullest extent permitted by applicable law and (ii) indemnification against any adverse tax consequences in connection with prior option awards that may have been non-compliant with Section 409A of the IRC.

On August 24, 2011, Mr. Jebsen became interim Chief Executive Officer. In connection with this service, Mr. Jebsen receives additional compensation of $10,000 per month for each month that he serves as interim Chief Executive Officer. Upon completion of his service as interim Chief Executive Officer, Mr. Jebsen will be eligible to receive a discretionary bonus based upon his performance as interim Chief Executive Officer.

1999 Amended Stock Plan

Mr. Jebsen received equity awards under our 1999 Amended Stock Plan during fiscal 2013, which provide for accelerated vesting of such options under certain circumstances. If Mr. Jebsen is terminated other than as a result of his death or disability, his unvested options will terminate on his termination date and his vested options will remain exercisable until 3 months after the termination date. If Mr. Jebsen is terminated as a result of his death or disability, his unvested options will vest in full and remain exercisable until the first anniversary of such termination.

Additionally, upon a change of control, except as otherwise determined by the Board of Directors in its discretion, all options will become fully vested and exercisable. For this purpose, a "change of control" means: (i) the acquisition of shares of our stock representing fifty percent (50%) or more of the combined voting power of the our shares entitled to vote on the election of directors; (ii) the consummation of a merger, share exchange, consolidation or reorganization involving us and any other company or other entity as a result of which less than fifty percent (50%) of the combined voting power of the surviving or resulting company or entity after such transaction is held in the aggregate by the holders of the combined voting power of our outstanding shares immediately prior to such transaction; (iii) the approval by our stockholders of an agreement for the sale or disposition by the Company of all or substantially all of our assets; or (iv) a change in the composition of the Board of Directors occurring within a two-year period, as a result of which fewer than a majority of directors were current directors.

Compensation of Directors

The following table summarizes the compensation paid to non-employee directors for the fiscal year ended April 30, 2013.

2013 Director Compensation

Director	Fees Earned or Paid in Cash ($)	Option Awards ($)	Stock Awards ($)	All Other Compensation ($)	Total ($)
Ronald R. Blanck, DO[(1)]	40,249	—	33,751	—	74,000
William A. Chatfield[(1)]	34,249	—	33,751	—	68,000
Anthony DiTonno[(1)]	36,031	34,461	—	—	68,500
Gregory Pepin[(1)]	68,500	—	—	—	68,500
Chris A. Rallis[(1)]	35,750	—	33,250	—	69,000

(1) As of April 30, 2013, Mr. DiTonno held an aggregate of 1,761 stock options. In addition, as of April 30, 2013, our non-employee directors held the following restricted stock units: Dr. Blanck, 485; Mr. Chatfield, 465; Mr. Rallis, 230.

During fiscal 2013, all of our non-employee directors were paid the following compensation for service on the Board and Board Committees:

- An annual director fee in each fiscal year of $45,000 ($65,000 for our lead independent director), which was paid in equal monthly installments in arrears on the last day of each month;
- A fee for attending each meeting of the Board in the amount of $4,000;
- A fee for attending each committee meeting of which the Director is a member in the amount of $500; and
- Reimbursement of travel and related expenses for attending Board and Committee meetings, as incurred.

In addition to the compensation described above, each non-employee director, with the exception of Mr. Rallis and Mr. DiTonno, was granted a 2,000 stock option award on their initial nomination to the Board. The options may vest immediately or up to one year later, and are exercisable for a period of three years. We shall maintain an appropriate director's and officer's insurance policy at all times for our non-employee directors.

With the exception of Mr. Pepin, who receives all director fees in cash, the fees paid to the Company's non-employee directors described above are paid 50% in cash and 50% in restricted stock. Restricted stock awards granted to our non-employee directors from May 1, 2011 to December 15, 2011 vests over a three-year period, and restricted stock awards granted after December 15, 2011 vests 25% per fiscal quarter.

ITEM 12— SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

Principal Stockholders and Share Ownership by Management

The following table sets forth, as of June 20, 2013, the number and percentage of the outstanding shares of common stock and warrants and options that, according to the information supplied to us, were beneficially owned by (i) each person who is currently a director, (ii) our named executive officer, (iii) all current directors and executive officers as a group and (iv) each person who, to our knowledge, is the beneficial owner of more than five percent of the outstanding common stock. Except as otherwise indicated, the persons named in the table have sole voting and dispositive power with respect to all shares beneficially owned, subject to community property laws where applicable.

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Beneficial Owner Name and Address[1]	Amount and Nature of Beneficial Ownership	Percent of Class
Principal Stockholders		
Vatea Fund, Segregated Portfolio	189,082	9.02%
Rue Du Borgeaud 10-B Gland, Switzerland 1196		
JP SPC3 OXBT FUND	248,429	11.85%
Rue Du Mont-Blanc Geneva, Switzerland 1201		
Officers and Directors		
Gregory Pepin[3]	452,345	21.57%
Ronald R. Blanck, DO[4]	1,801	*%
William A. Chatfield[4]	1,771	*%
Anthony DiTonno[4]	1,761	*%
Chris A. Rallis[4]	1,290	*%
Michael B. Jebsen, CPA[2][4]	2,984	*%
All officers and directors as a group (7 persons) [2][4]	461,952	22.03%

(1) Unless otherwise noted, all addresses are in care of the Company at ONE Copley Parkway, Suite 490, Morrisville, North Carolina 27560.

(2) With respect to Mr. DiTonno, includes 1,761 shares of common stock subject to options exercisable within 60 days of June 20, 2013.

With respect to Mr. Jebsen, includes 1,673 shares of common stock subject to options exercisable within 60 days of June 20, 2013.
With respect to all officers and directors as a group, includes 3,434 shares of common stock subject to options exercisable within 60 days of June 20, 2013.

(3) Includes 189,082 shares of common stock held by Vatea Fund. Mr. Pepin is a Managing Director for Vatea Fund, and consequently he may be deemed to be the beneficial owner of shares held by Vatea Fund. Also includes 44,437 shares of common stock and 203,992 shares of common stock underlying a convertible note and warrants held by OXBT Fund that are exercisable within 60 days of June 20, 2013. Mr. Pepin is also a co-founder of EOS, an investment company, which serves as the Investment Manager and Managing Director for OXBT Fund, and consequently he may be deemed to be the beneficial owner of shares held by OXBT Fund. Mr. Pepin disclaims beneficial ownership of the shares held by Vatea Fund and OXBT Fund except to the extent of his pecuniary interest therein.

(4) With respect to Dr. Blanck, includes 123 shares of common stock subject to restricted stock grants exercisable within 60 days of June 20, 2013.

With respect to Mr. Chatfield, includes 113 shares of common stock subject to restricted stock grants exercisable within 60 days of June 20, 2013.

With respect to Mr. Jebsen, includes 72 shares of common stock subject to restricted stock grants exercisable within 60 days of June 20, 2013.

With respect to all officers and directors as a group, includes 308 shares of common stock subject to restricted stock grants exercisable within 60 days of June 20, 2013.

Equity Compensation Plan Information

Plan category	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights	(b) Weighted-average exercise price of outstanding options, warrants and rights	(c) Number of securities remaining available for future issuances under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders	13,253	$ 55.76	282,726
Equity compensation plans not approved by security holders	—	—	—
Total	13,253	$ 55.76	282,726

ITEM 13 — CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

Related Party Transactions

Securities Purchase Agreement with Vatea Fund

As discussed above, Mr. Pepin is a Managing Director to Vatea Fund, is a co-founder of EOS, which serves as investment manager to Vatea Fund, and was a Senior Vice President at Melixia until April 2010.

On June 8, 2009, we entered into a securities purchase agreement (the "Securities Purchase Agreement") with Vatea Fund. The Securities Purchase Agreement established milestones for the achievement of product development and regulatory targets and other objectives, after which Vatea Fund was required to purchase up to 200,000 additional shares of common stock at a price of $75 per share. If a milestone were not achieved by its corresponding target date, then the date was automatically extended for three months. Thereafter, if a milestone was not achieved by its extended target date, we and Vatea Fund could negotiate in good faith agreement on a new target date for the milestone, but if no agreement was reached within 30 days Vatea Fund had no obligation to purchase any shares with respect to that milestone should it subsequently be achieved. The obligation of Vatea Fund to purchase any additional shares upon achieving milestones was set to end for any milestones not achieved by September 30, 2011. Including the initial investment in July 2009, and assuming all milestones were achieved in a timely manner, the Securities Purchase Agreement provided for a maximum of 266,667 shares being sold for $20 million. The number of shares issued was subject to adjustment for stock dividends, stock splits, reverse stock splits, and similar transactions.

Under the terms of the Securities Purchase Agreement, on July 10, 2009, Vatea Fund purchased 66,667 shares of our restricted common stock at a price of $75 per share, or a total of $5 million.

In connection with the closing, we paid a consulting fee to Melixia for services provided as facilitating agent, which consisted of $500,000 in cash and 3,333 shares of restricted common stock valued at $350,002. We also paid $75,000 in fees to another consultant who assisted with the Securities Purchase Agreement.

On August 24, 2009, we agreed to accelerate the election of Mr. Pepin to the Board of Directors, under the terms of the Securities Purchase Agreement, to enhance our relationship with Vatea Fund.

On September 2, 2009, we and the Vatea Fund amended the Securities Purchase Agreement providing an alternative milestone schedule.

In August 2009, we received formal approval from Swissmedic to begin Phase II clinical trials of our Oxycyte product in Switzerland. The Swissmedic approval triggered the first milestone payment in the amended milestone schedule of the Securities Purchase Agreement. In accordance with the Securities Purchase Agreement, Vatea Fund was required to purchase an additional 80,000 shares of common stock at $75 per share, or $6,000,000, on or before December 10, 2009.

The initial partial closing occurred on October 29, 2009, pursuant to which 8,000 shares were delivered to Vatea Fund against payment to us of $600,000.

The second partial closing occurred on November 20, 2009, pursuant to which 32,000 shares were delivered to Vatea Fund against payment to us of $2.4 million.

The final closing occurred on December 9, 2009, pursuant to which 40,000 shares were delivered to Vatea Fund against payment to us of $3 million.

In connection with the three closings, we paid a consulting fee to Melixia for services provided as facilitating agent, which consisted of $600,000 in cash and 4,000 shares of restricted common stock valued at $412,000. We also paid $90,000 in fees to another consultant who assisted with the Agreement.

On April 23, 2010, we and Vatea Fund entered into a second amendment to the Securities Purchase Agreement. Under the second amendment, the parties agreed to modify two provisions of the Securities Purchase Agreement. The first modification was a change to the form of fees paid to the facilitating agent, Melixia. For all closings under the Securities Purchase Agreement occurring on or after April 23, 2010, cash fees will no longer be paid. Fees will be paid in the form of restricted shares of common stock, issued in an amount equal to 20% of the shares issued at each closing. The second modification changes the schedule of milestones. The new schedule includes a closing of $500,000 on or before April 30, 2010, another closing in the same amount on or before May 30, 2010, and a closing in the amount of $3,500,000 on the earlier of (1) closing of a license or sales agreement with an aggregate value in excess of $500,000 or (2) December 31, 2011. The remaining balance of $4,500,000 under the Agreement was set to be paid upon achievement of the amended product development and regulatory milestones.

On April 26, 2010, in accordance with the second amendment of the agreement, we received $500,000 and issued 6,667 shares to the Vatea Fund.

On May 27, 2010, in accordance with the second amendment of the agreement, we received $500,000 and issued 6,667 shares to the Vatea Fund.

In connection with the two closings, we issued 2,667 shares of restricted common stock valued at $160,002 to Melixia for their services provided as facilitating agent. We also paid $67,500 in fees to another consultant who assisted with the Agreement.

On November 11, 2011, we and Vatea Fund entered into a third amendment to the Securities Purchase Agreement. The third amendment deemed all milestones under the Securities Purchase Agreement achieved in exchange for a reduction in the purchase price for shares of our common stock under the Securities Purchase Agreement to $57 per share.

On November 14, 2011, following entry into the third amendment to the Securities Purchase Agreement, the final closing (the “Final Closing”) under the Securities Purchase Agreement occurred pursuant to which we delivered 140,351 shares of our common stock to the holders of the Securities Purchase Agreement against payment to us of an aggregate of $8,000,000.

In connection with the Final Closing, we paid fees to Melixia for services provided as facilitating agent, which consisted of 28,070 shares of our common stock.

Following the Final Closing, no securities remain available for purchase under the Securities Purchase Agreement.

Note Purchase Agreement with Vatea Fund

On October 12, 2010 we entered into a Note Purchase Agreement, as amended on December 29, 2010, with Vatea Fund whereby we agreed to issue and sell to Vatea Fund an aggregate of $5,000,000 of senior unsecured promissory notes, or the Notes, on or before April 30, 2011. The Notes were set to mature on October 31, 2013, unless the holders of a majority of the Notes consent in writing to a later maturity date. Interest did not accrue on the outstanding principal balance of the Notes (other than following the maturity date or earlier acceleration). Instead, on the maturity date, we were required to pay the holders of the Notes a final payment premium aggregating $3,000,000, in addition to the principal balance then otherwise outstanding under the Notes. The Notes provided that we have the option, at our sole discretion and without penalty, to prepay the outstanding balance under the Notes plus the amount of the final payment premium prior to the maturity date. In addition, the holders of majority of the Notes had the option to request that we prepay the Notes in an amount equal to the proceeds of any subsequent closings under the Securities Purchase Agreement. The following table summarizes the promissory notes that have been issued under the Note Purchase Agreement.

Date issued	Note principal	Final payment premium	Effective interest rate
November 10, 2010	$ 600,000	$ 360,000	15.68%
December 20, 2010	1,000,000	600,000	16.29%
January 26, 2011	400,000	240,000	16.89%
March 2, 2011	100,000	60,000	17.50%
March 4, 2011	650,000	390,000	17.54%
March 11, 2011	111,000	66,600	17.66%
March 18, 2011	430,000	258,000	17.79%
March 29, 2011	210,000	126,000	18.00%
April 5, 2011	100,000	60,000	18.14%
April 29, 2011	700,000	420,000	18.62%
May 9, 2011	400,000	240,000	18.83%
May 20, 2011	100,000	60,000	19.06%
May 23, 2011	200,000	120,000	19.12%

Pursuant to the terms of the Note Purchase Agreement, on November 15, 2011 we used the proceeds from the Final Closing, discussed above, to prepay the outstanding balance under the notes, including $2,367,574 of unaccreted final payment premium thereunder. Following the Final Closing, no outstanding balance remains under the Note Purchase Agreement.

Issuance of Convertible Note and Warrants to OXBT Fund

On June 16, 2011, we entered into a Convertible Note and Warrant Purchase Agreement (the "OXBT Fund Agreement") with OXBT Fund, pursuant to which the we agreed to issue and sell to OXBT Fund in a private placement (the "OXBT Fund Transaction") a subordinated convertible promissory note (the "OXBT Fund Note") with a principal amount of $4,600,000 and warrants (the "OXBT Fund Warrants") to purchase an aggregate of 101,996 shares of our common stock. Mr. Pepin, is a co-founder of EOS, an investment company, which serves as the investment manager and managing director of OXBT Fund. The closing of the OXBT Fund Transaction occurred on July 1, 2011.

Interest on the OXBT Fund Note will accrue at a rate of 15% annually and will be paid in quarterly installments commencing on the third month anniversary of issuance. The OXBT Fund Note will mature 36 months from the date of issuance. The OXBT Fund Note may be converted into shares of common stock at a conversion price of $45.10 per share (subject to adjustment for stock splits, dividends and combinations, recapitalizations and the like) (the "Conversion Price") at any time, in whole or in part, at any time at the option of the holder(s) of the OXBT Fund Note. The OXBT Fund Note also will automatically convert into shares of common stock at the Conversion Price at the election of a majority-in-interest of the holders of notes issued under the OXBT Fund Agreement or upon the acquisition or sale of all or substantially all of our assets. We may make each applicable interest payment or payment of principal in cash, shares of common stock at the Conversion Price, or any combination thereof. We may elect to prepay all or any portion of the OXBT Fund Note without prepayment penalties only with the approval of a majority-in-interest of the note holder(s) under the OXBT Fund Agreement at the time of the election. The OXBT Fund Note contains various events of default such as failing to timely make any payment under the OXBT Fund Note when due, which may result in all outstanding obligations under the OXBT Fund Note becoming immediately due and payable.

The OXBT Fund Warrants were issued in three approximately equal tranches, with exercise prices of $43, $52 and $57, respectively, per share of common stock (in each case subject to adjustment for stock splits, dividends and combinations, recapitalizations and the like). The OXBT Fund Warrants are exercisable on or after the date of issuance and expire on the earlier to occur of the five year anniversary of the date of issuance or an acquisition or sale of all or substantially all of our assets. The exercise prices of shares of common stock underlying the OXBT Fund Warrants are subject to adjustment in the event of future issuances of common stock or equivalents by us at a price less than the applicable exercise price, but in no event shall a OXBT Fund Warrant exercise price be adjusted to less than $45.10 per share (subject to adjustment for stock splits, dividends and combinations, recapitalizations and the like) of common stock.

Employment of Maria Tamargo

Maria Tamargo is the daughter-in-law of Mr. Stern our former Chief Executive Officer, and we employed her as our Senior Vice President of Dermacyte Development. In this capacity she received an annual salary of $120,000, milestone triggered bonuses with a total potential of $30,000, a monthly auto allowance of $500 and 1,000 options annually. Effective August 24, 2011, Ms. Tamargo is no longer employed with us.

Employment of Edwin Fox

Mr. Edwin Fox is the brother-in-law of Mr. Jebsen, our interim Chief Executive Officer and Chief Financial Officer, and we employed Mr. Fox as a Senior Financial Analyst and Interim California Lab Manager. In this capacity Mr. Fox received an annual salary of $82,500 and potential bonus of $10,000. Mr. Fox did not have a direct reporting relationship to Mr. Jebsen. Effective May 8, 2012, Mr. Fox was no longer employed with us.

Independence of Directors

In accordance with the listing rules of The NASDAQ Stock Market LLC ("NASDAQ"), our Board of Directors must consist of a majority of "independent directors," as determined in accordance with NASDAQ Rule 5605(a)(2). The Board has determined that Messrs. Blanck, Pepin, Chatfield, Rallis and DiTonno are independent directors in accordance with applicable NASDAQ listing rules. The Board performed a review to determine the independence of the director nominees and made a subjective determination as to each of these independent director nominees that no transactions, relationships, or arrangements exist that, in the opinion of the Board, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director of our company. In making these determinations, the Board reviewed the information provided by the director nominees with regard to each individual's business and personal activities as they may relate to us and our management.

ITEM 14 — PRINCIPAL ACCOUNTANT FEES AND SERVICES

The aggregate fees billed for professional services by our independent registered public accounting firm, Cherry Bekaert LLP, in 2013 and 2012 were as follows:

	2013	2012
Audit fees	$ 124,000	$ 178,000
Tax fees[1]	17,400	11,200
Total fees	$ 141,400	$ 189,200

(1) Tax return and related service

It is our Audit and Compliance Committee's policy and procedure to approve in advance all audit engagement fees and terms and all permitted non-audit services provided by our independent registered public accounting firm. We believe that all audit engagement fees and terms and permitted non-audit services provided by our independent registered public accounting firm as described in the above table were approved in advance by our Audit and Compliance Committee

PART IV

ITEM 15—EXHIBITS AND FINANCIAL STATEMENT SCHEDULES (A)(1) The financial statements and information listed below are included in this report in Part II, Item 8.

- Reports of Independent Registered Public Accounting Firm.
- Balance Sheets as of April 30, 2013 and 2012.
- Statements of Operations for each of the two years ended April 30, 2013 and April 30, 2012 and for the period May 26, 1967 (Date of Inception) to April 30, 2013.
- Statements of Stockholders' Equity (Deficit) for each of the two years ended April 30, 2013and April 30, 2012 and for the period May 26, 1967 (Date of Inception) to April 30, 2013.
- Statements of Cash Flows for each of the two years ended April 30, 2013 and April 30, 2012 and for the period May 26, 1967 (Date of Inception) to April 30, 2013.
- Notes to the Financial Statements.

(A)(2) No schedules have been included because they are not applicable or the required information is shown in our financial statements or our notes thereto.

(A)(3) The exhibits required by Item 601 of Regulation S-K are listed in the Exhibit Index immediately following the signature pages to this report.

SIGNATURES

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

OXYGEN BIOTHERAPEUTICS, INC.

Date: June 26, 2013

By: /s/ Michael B. Jebsen
Michael B. Jebsen
Chief Financial Officer and Interim Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that each individual whose signature appears below constitutes and appoints Michael B. Jebsen, his true and lawful attorney-in-fact and agent with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments to this report, and to file the same, with all exhibits thereto, and all documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Name	Title	Date
/s/ Michael B. Jebsen Michael B. Jebsen	Chief Financial Officer Interim Chief Executive Officer (Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer)	June 26, 2013
/s/ Ronald R. Blanck Ronald R. Blanck, DO	Director	June 26, 2013
/s/ Gregory Pepin Gregory Pepin	Director	June 26, 2013
/s/ William A. Chatfield William A. Chatfield	Director	June 26, 2013
/s/ Chris A. Rallis Chris A. Rallis	Director	June 26, 2013
/s/ Anthony DiTonno Anthony DiTonno	Director	June 26, 2013

EXHIBIT INDEX

Exhibit No.	Exhibits Required by Item 601 of Regulation S-K
2.1	Agreement and Plan of Merger dated April 28, 2008 (1)
3.1	Certificate of Incorporation (1)
3.2	Certificate of Amendment of the Certificate of Incorporation (14)
3.3	Certificate of Amendment of the Certificate of Incorporation (30)
3.4	Certificate of Designations of Series A Convertible Preferred Stock (28)
3.5	Certificate of Designations of Series B-1 Convertible Preferred Stock (31)
3.6	Certificate of Designations of Series B-2 Convertible Preferred Stock (31)
3.7	Amended and Restated Bylaws (22)
4.1	Specimen Stock Certificate (19)
10.1	Agreement with Leland C. Clark, Jr., Ph.D. dated November 20, 1992 with amendments, Assignment of Intellectual Property/ Employment (2)
10.2	Agreement between the Registrant and Keith R. Watson, Ph.D. Assignment of Invention (2)
10.3	Children's Hospital Research Foundation License Agreement dated February 28, 2001 (2)
10.4	Exclusive License Agreement with Virginia Commonwealth University dated May 22, 2008 (9)
10.5	Amendment no. 1 to the Exclusive License Agreement with Virginia Commonwealth University Intellectual Property Foundation (10)
10.6	Amendment no. 2 to the Exclusive License Agreement with Virginia Commonwealth University Intellectual Property Foundation (10)

10.7	Agreement with Hospira to manufacture Oxycyte (8)
10.8	Termination Agreement between the Company and Hospira, dated August 30, 2011 (23)
10.9	Exclusive Supply Agreement with Exfluor dated November 12, 2009 (10)
10.10	Master Agreement with Dermacyte Switzerland (18)
10.11	Amendment no. 1 to Master Agreement with Dermacyte Switzerland (18)
10.12	Form of Option issued to Executive Officers and Directors (2)
10.13	Form of Option issued to Employees (2)
10.14	Restricted Stock Award Agreement (22)
10.15	Form of Warrant issued to Unsecured Note Holders 2006-2007 (3)
10.16	Form of Convertible Note – 2008 (4)
10.17	Form of Warrant issued to Convertible Note Holders (4)
10.18	Form of Purchase Agreement – US Purchase (without exhibits, which are included as exhibits 10.16 and 10.17, above) (4)
10.19	Form of Purchase Agreement – Non-US Purchase (without exhibits, which are included as exhibits 10.16 and 10.17, above) (4)
10.20	Form of Purchase Agreement – US Note Exchange (without exhibits, which are included as exhibits 10.16 and 10.17, above) (4)
10.21	Form of Purchase Agreement – Non-US Note Exchange (without exhibits, which are included as exhibits 10.16 and 10.17, above) (4)
10.22	Form of Warrant issued to Financing Consultants (5)

10.23	1999 Amended Stock Plan (amended 2008) (5)
10.24	Employment Agreement with Chris J. Stern dated February 1, 2009 (12)
10.25	Amended and Restated Employment Agreement with Chris J. Stern dated May 13, 2011 (20)
10.26	Business Consultant Agreement with Institute for Efficient Management, Inc., as amended March 26, 2008 (5)
10.27	Engagement and Consulting Agreement with Bruce Spiess (5)
10.28	Engagement and Consulting Agreement with Gerald L. Klein (5)
10.29	Employment Agreement with Gerald L. Klein dated May 13, 2011 (20)
10.30	Business Consultant Agreement with Edward Sitnik (8)
10.31	Business Consultant Agreement with J. Melville Engle (8)
10.32	Employment Agreement with Richard Kiral, restated February 1, 2009 (8)
10.33	Resignation of Employment and Consulting Agreement with Richard Kiral (20)
10.34	Employment Agreement with Michael B. Jebsen dated December 1, 2010 (16)
10.35	Amended and Restated Employment Agreement with Michael B. Jebsen dated May 19, 2011 (20)
10.36	Form of Indemnification Agreement (20)
10.37	Description of Non-Employee Director Compensation (25)
10.38	Securities Purchase Agreement (including exhibits) between Oxygen Biotherapeutics and Vatea Fund, Segregated Portfolio dated June 8, 2009 (6)
10.39	Amendment no. 1 to the Securities Purchase Agreement between Oxygen Biotherapeutics and Vatea Fund, Segregated Portfolio (11)

10.40	Amendment no. 2 to the Securities Purchase Agreement between Oxygen Biotherapeutics and Vatea Fund, Segregated Portfolio (12)
10.41	Amendment no. 3 to the Securities Purchase Agreement between Oxygen Biotherapeutics and Vatea Fund, Segregated Portfolio (23)
10.42	Form of Exchange Agreement dated July 20, 2009 (7)
10.43	Waiver—Convertible Note (10)
10.44	Amendment—Common Stock Purchase Warrant (10)
10.45	Form of Warrant for May 2010 offering (13)
10.46	Form of Subscription Agreement for May 2010 offering (13)
10.47	Warrant issued to Blaise Group International, Inc. (14)
10.48	Note Purchase Agreement between Oxygen Biotherapeutics and JP SPC 1 Vatea, Segregated Portfolio (15)
10.49	Form of Promissory Note under Note Purchase Agreement between Oxygen Biotherapeutics and JP SPC 1 Vatea, Segregated Portfolio (15)
10.50	First Amendment to Note Purchase Agreement between Oxygen Biotherapeutics and JP SPC 1 Vatea, Segregated Portfolio (17)
10.51	Lease Agreement for North Carolina corporate office (18)
10.52	Standard Industrial Lease relating to OBI's California facility (12)
10.53	Task Order between the Company and NextPharma, dated November 15, 2011 (23)
10.54	Form of Convertible Note for July 2011 offering (included in exhibit 10.56)
10.55	Form of Warrant for July 2011 offering (included in exhibit 10.56)
10.56	Form of Convertible Note and Warrant Purchase Agreement for July 2011 offering (21)

10.57	Placement Agency Agreement, dated December 8, 2011, between Oxygen Biotherapeutics, Inc. and William Blair & Company, L.L.C., as placement agent (24)
10.58	Form of Warrant for December 2011 offering (24)
10.59	Form of Securities Purchase Agreement for December 2011 offering (24)
10.60	Form of Amendment Agreement for December 2011 offering (26)
10.61	Form of Lock-up Agreement for December 2011 offering (24)
10.62	Form of Amendment Agreement for December 2011 offering (27)
10.63	Fluoromed Supply Agreement (28)
10.64	Form of Warrant for February 2013 offering (29)
10.65	Placement Agency Agreement, dated February 22, 2013, between Oxygen Biotherapeutics, Inc. and Ladenburg Thalmann & Co. Inc., as placement agent (29)
10.66	Form of Securities Purchase Agreement for February 2013 offering (29)
10.67	Form of Registration Rights Agreement for February 2013 offering (29)
10.68	Form of Warrant Exchange Agreement, dated February 21, 2013, between Oxygen Biotherapeutics, Inc. and certain institutional investors party to the Securities Purchase Agreement for December 2011 Offering (29)
10.69	License and Supply Agreement dated February 5, 2013, between Oxygen Biotherapeutics, Inc. and Valor SA*
10.70	Settlement Agreement, dated March 14, 2013, among Oxygen Biotherapeutics, Inc., Tenor Opportunity Master Fund Ltd., Aria Opportunity Fund, Ltd., and Parsoon Opportunity Fund, Ltd.*
23.1	Consent of Independent Registered Accounting Firm*
31.1	Certification of Chief Executive Officer and Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*
32.1	Certification of Chief Executive Officer and Chief Financial Officer Pursuant to 18 U.S.C. Section 1350*

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101.INS**	XBRL Instance Document
101.SCH**	XBRL Taxonomy Extension Schema Document
101.CAL**	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF**	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB**	XBRL Taxonomy Extension Label Linkbase Document
101.PRE**	XBRL Taxonomy Extension Presentation Linkbase Document

(1) These documents were filed as exhibits to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on June 30, 2008, and are incorporated herein by this reference.
(2) These documents were filed as exhibits to the annual report on Form 10-K filed by Oxygen Biotherapeutics with the SEC on August 13, 2004, and are incorporated herein by this reference.
(3) These documents were filed as exhibits to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on September 6, 2006, and are incorporated herein by this reference.
(4) These documents were filed as exhibits to the quarterly report on Form 10-Q filed by Oxygen Biotherapeutics with the SEC on March 21, 2008, and are incorporated herein by this reference.
(5) These documents were filed as exhibits to the annual report on Form 10-K filed by Oxygen Biotherapeutics with the SEC on August 13, 2008, and are incorporated herein by this reference.
(6) This document was filed as an exhibit to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on June 8, 2009, and is incorporated herein by this reference.
(7) This document was filed as an exhibit to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on July 21, 2009, and is incorporated herein by this reference.
(8) These documents were filed as exhibits to the annual report on Form 10-K filed by Oxygen Biotherapeutics with the SEC on August 12, 2009, and are incorporated herein by this reference.
(9) This document was filed as an exhibit to the quarterly report on Form 10-Q filed by Oxygen Biotherapeutics with the SEC on September 22, 2008, and is incorporated herein by this reference.
(10) These documents were filed as exhibits to the quarterly report on Form 10-Q filed by Oxygen Biotherapeutics with the SEC on March 19, 2010, and are incorporated herein by this reference.
(11) This document was filed as an exhibit to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on September 2, 2009, and is incorporated herein by this reference.
(12) These documents were filed as exhibits to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on April 28, 2010, and are incorporated herein by this reference.
(13) These documents were filed as exhibits to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on May 4, 2010, and are incorporated herein by this reference.
(14) These documents were filed as exhibits to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on November 13, 2009, and are incorporated herein by reference.
(15) These documents were filed as exhibits to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on October 13, 2010, and are incorporated herein by this reference.
(16) These documents were filed as exhibits to the quarterly report on Form 10-Q filed by Oxygen Biotherapeutics with the SEC on December 9, 2010, and are incorporated herein by this reference.
(17) This document was filed as an exhibit to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on December 30, 2010, and is incorporated herein by this reference.
(18) These documents were filed as exhibits to the quarterly report on Form 10-Q filed by Oxygen Biotherapeutics with the SEC on March 21, 2011, and are incorporated herein by this reference.
(19) These documents were filed as exhibits to the annual report on Form 10-K filed by Oxygen Biotherapeutics with the SEC on July 23, 2010, and are incorporated herein by this reference.
(20) This document was filed as an exhibit to the annual report on Form 10-K filed by Oxygen Biotherapeutics with the SEC on July 15, 2011, and is incorporated herein by this reference.
(21) This document was filed as an exhibit to the current report on Form 8-K/A filed by Oxygen Biotherapeutics with the SEC on July 1, 2011, and is incorporated herein by this reference.
(22) This document was filed as an exhibit to the quarterly report on Form 10-Q filed by Oxygen Biotherapeutics with the SEC on December 15, 2011, and is incorporated herein by this reference.
(23) These documents were filed as exhibits to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on November 16, 2011, and are incorporated herein by this reference.
(24) These documents were filed as exhibits to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on December 9, 2011, and are incorporated herein by this reference.
(25) This document was filed as an exhibit to the quarterly report on Form 10-Q filed by Oxygen Biotherapeutics with the SEC on March 15, 2012, and is incorporated herein by this reference.
(26) This document was filed as an exhibit to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on June 15, 2012, and is incorporated herein by this reference.
(27) This document was filed as an exhibit to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on June 15, 2012, and is incorporated herein by reference.

(28) These documents were filed as exhibits to the annual report on Form 10-K filed by Oxygen Biotherapeutics with the SEC on July 25, 2012, and are incorporated herein by this reference.

(29) These documents were filed as exhibits to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on February 25, 2013, and are incorporated herein by this reference.

(30) This document was filed as an exhibit to the current report on Form 8-K filed by Oxygen Biotherapeutics with the SEC on May 5, 2013, and is incorporated herein by this reference.

(31) These documents were filed as exhibits to the registration statement on Form S-1 filed by Oxygen Biotherapeutics with the SEC on March 22, 2013, and are incorporated herein by this reference.

* Filed herewith.

** Pursuant to Rule 406T of Regulation S-T, the Interactive Data Files in Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.

EXHIBIT 10.69

LICENSE AND SUPPLY AGREEMENT

THIS LICENSE AND SUPPLY AGREEMENT *("Agreement")* is by and between Oxygen Biotherapeutics, Inc., with a place of business at ONE Copley Parkway, Suite 490, Morrisville, North Carolina 27560 *("OBI"* or *"Licensor"),* and Valor SA (Cosmetics Division), with a place of business at Boulevard de Grancy 1 – CH1006 Lausanne - Switzerland, *("VCD" or "Licensee"),* (each individually referred to herein as a "Party" and collectively referred to as the "Parties").

WITNESSETH

WHEREAS, OBI is the owner of a perfluorocarbon ("PFC") based Cosmetic Product as that term is defined below, marketed under the trademark Dermacyte®; and

WHEREAS, OBI possesses the expertise and resources to manufacture Dermacyte; and

WHEREAS, VCD desires to enter into an agreement with OBI for the exclusive right to purchase from OBI bulk Dermacyte to package and sell throughout all the world; and

WHEREAS, the Parties desire to set forth the terms and conditions pursuant to which OBI will supply bulk Dermacyte to VCD and license all commercial rights in the Field, as that term is defined below, exclusively to Licensee.

NOW, THEREFORE, in consideration of the premises and promises in this Agreement, the Parties agree as follows:

1.0 CONDITIONS PRECEDENT

This Agreement shall become effective upon OBI's receipt from VCD of the payment of seventy-five percent (75%) of the estimated costs to complete Product Formulation and Safety Studies on Product VCD has requested in Section 12.1(b) herein ("Effective Date"). Notwithstanding the foregoing, OBI shall have sixty (60) days from the Effective Date to discontinue its sales of Product, including the fulfillment of any orders and termination of advertising and promotional campaigns. The parties acknowledge OBI may be unable to terminate some advertisements previously contracted for and such advertising shall not be deemed a breach of this Agreement by OBI.

2.0 DEFINITIONS

The following defined terms are used in this Agreement. The use of the singular form includes the plural form, and vice versa, as the context requires.

2.1 *"Affiliate"* of a Party means a Person that, directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with the first mentioned Person. A Person shall be deemed to control another Person if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, by contract or otherwise.

2.2 *"Control"* means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of management of a Person, whether through ownership of voting securities, by contract or otherwise.

2.3 *"Cosmetic Product"* means articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, expressly excluding any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals.

2.4 *"Dermacyte"* means the Cosmetic Product containing PFCs manufactured and distributed by OBI.

2.5 *"FDA"* shall mean the U.S. Food and Drug Administration and any successor agency.

2.6 *"Field"* mean*s,* and is limited to, applications involving the use of Cosmetic Products and expressly excluding dermatological products or claims.

2.7 *"Licensor Patent Rights"* means those domestic and foreign Patent Rights that are owned or Controlled by Licensor as of January 1, 2013 as set forth on Schedule A, attached hereto and incorporated herein by reference, and which are subject to change without VCD prior approval, any such change to be automatically incorporated into this agreement upon receipt of written notification of such changes to VCD.

2.8 *"Licensed Products"* means any Cosmetic Product the packaging, labeling, use or sale of which relies in whole or in part on some or all of the Licensor Patent Rights or OBI Know-How. For clarification, any Product purchased by VCD from OBI is Licensed Product, and includes Product in any package and under any label which VCD may utilize for commercialization.

2.9 *"Net Sales"* means the gross amount invoiced by Licensee (and/or any sublicensees) for sales of Licensed Products less:

(a) Transportation charges or allowances actually paid or granted;

(b) Trade, quantity, cash or other discounts, if any, allowed and paid by Licensee independent parties in arms-length transactions;

(c) Credits or allowances made or given on account of rejec*ts, returns,* recalls or retroactive price reductions for any amount not collected;

(d) Any tax or governmental charge directly on sale or transportation, use or delivery or services paid by Licensee and not recovered from the purchaser.

2.10 *"OBI Know-How"* means all information, data, or materials, whether in hard copy or electronic form, that are necessary or useful for the sale, packaging, labeling or other commercialization of Licensed Product(s), which OBI controls as of the Effective Date.

2.11 *"Patent Rights"* means any and all patent applications and any patents issuing therefrom, worldwide, together with any extensions, registrations, confirmations, supplemental protection certificates and other like forms of patent term extensions, reissues, continuations, divisions, continuations-in-part, reexaminations, corrections, substitutions or renewals thereof, and all foreign counterparts thereof. Where applicable, it shall also mean Trademarks and copyrights.

2.12 *"Person"* means any natural person, entity, corporation, partnership, firm, organization, limited liability company, trust, business trust, association, joint stock company, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, any government or agency or political subdivision thereof, or any other entity.

2.13 *"Product"* means a specific formulation of Cosmetic Product containing one or more PFCs, manufactured in bulk quantities by OBI, for purchase by VCD.

2.14 *"Territory*" means worldwide.

2.15 *"Third Party"* means any Person other than OBI or Licensee.

3.0 LICENSES

3.1 Licenses:

Subject to the terms and conditions of this Ag*reement,* OBI grants to Licensee, and Licensee accepts an exclusive right and license in the Territory to use, sell, offer to sell, import, export, distribute, package, label and otherwise commercialize in the Field the Product manufactured by OBI or its subcontractors, including the right to sublicense (subject to the terms of this Agreement) under (1) the Licensor Patent Rights and (2) OBI Know-How, provided that such sublicense is granted concurrently with the grant of a sublicense to the Licensor Patent Rights.

3.2 Sublicenses:

Subject to the terms and conditions of this Agreement, Licensee shall have the right to grant sublicenses of the license granted hereunder, provided that such sublicenses are consistent with the terms of this Agreement. Licensee shall provide a copy of all sublicense agreements to OBI no later than thirty (30) days of executing the same. All such sublicense agreements shall be deemed Confidential Information of Licensee. No sublicense shall relieve Licensee of any of its obligations under this Agreement.

4.0 CONSIDERATION

4.1 Annual License Fee

As consideration for the licenses granted to Licensee in Section 3.1, Licensee shall issue directly to OBI (or its designee), a non-refundable Annual License Fee equal to US$140,000. Twenty-five percent (25%) of the Year 1 Annual License Fee is due within 30 days of the effective date. All Annual License Fees thereafter are due according to the following schedule: US$35,000 on each March 30, June 30, September 30, and December 30. The Year 1 Annual License Fees ($140,000) will be creditable against Product purchased in the first 12 months following the effective date of this Agreement.

4.2 Royalties

As additional consideration for the licenses granted, Licensee shall pay royalties on the Licensed Products in the amount of five percent (5%) of Net Sales, such royalty payments to begin after Licensee has attained ten million dollars (US$10,000,000) in aggregate Net Sales. In support thereof,

(a) Licensee agrees to make quarterly written reports to OBI within thirty (30) days after the first days of each January, April, July, and October during the life of this Agreement and as of such dates, stating in each such report the number, description, and aggregate selling prices of Licensed Products sold or otherwise disposed of during the preceding three calendar months and upon which royalty is payable as provided in Section 4.2 hereof. The first such report shall include all such Licensed Products so sold or otherwise disposed of prior to the date of such report.

(b) With each such report, Licensee shall remit to OBI the total amount of royalty payments due. All amounts payable to OBI hereunder shall be payable in United States funds, subject to deduction for any taxes, assessments, fees or charges of any kind withheld or imposed by any country on any royalty or other payment payable to OBI hereunder. Payments of royalties that are not made when due shall accrue interest at the rate of one percent (1 %) over the prime rate in effect at the Chase Manhattan Bank (N.A.) on the due date.

(c) Licensee will keep complete, true and accurate books of account and records for the purpose of showing the derivation of all amounts payable to OBI under this Agreement. Such books and records will be kept at Licensee's principal place of business for at least three (3) years following the end of the calendar quarter to which they pertain, and will be available no more than once during any calendar year, during normal business hours, upon seven (7) days prior written notice, for inspection by a representative of OBI for the purpose of verifying Licensee's royalty statements or Licensee's compliance in other respects with this Agreement. The representative will be obliged to treat such books and records as Confidential Information.

(d) Inspections made under this section shall be at the expense of OBI, unless a variation or error in any amount payable to OBI under this Agreement is identified, in which case the expenses of the Inspection shall be paid by Licensee.

5.0 TECHNOLOGY TRANSFER AND DILIGENCE

Failure to meet any requirements in this section shall be deemed a material breach of this Agreement.

5.1 Technology Transfers.

Promptly following the Effective Date, OBI and Licensee shall cooperate to define the scope and content of the transfer of OBI Know-How from OBI to Licensee as necessary or useful for the further packaging and commercialization of the Licensed Products (the "Tech Transfer Scope"). Promptly thereafter, OBI shall disclose and provide Licensee with any and all OBI Know-How then existing which falls within the Tech Transfer Scope and shall provide to Licensee competent and knowledgeable assistance to reasonably facilitate the transfer of such OBI Know-How to and for the use of Licensee in accordance with the terms of this Agreement.

5.2 Diligence Requirements.

Licensee shall use its reasonable best efforts to earnestly and assiduously commercialize, including the packaging, marketing and sale of, the Licensed Products during the Term. Within sixty (60) days of the Effective Date, Licensee shall submit to OBI, for OBI's review and approval (which approval shall not be unreasonably denied) a business plan for the commercialization of Licensed Products which includes: time planned for each phase of commercialization and other items as appropriate of the Licensed Products *("Business Plan")*. During such sixty (60) day period, Licensee shall solicit and OBI shall provide input with regard to the Business Plan and, thereafter, Licensee shall provide OBI with quarterly reports including Product purchase forecasts for the next quarter.

6.0 WARRANTIES; ASSUMPTION OF RISK; INDEMNIFICATION; AND INSURANCE

6.1 OBI's Warranties.

OBI represents and warrants that, as of the Effective Date:

(a) it is the good faith belief that it holds all rights necessary to grant to Licensee the licenses granted under this Agreement with respect to the Licensor Patent Rights;

(b) it has received no notification that the Licensor Patent Rights are invalid and has not received written notification from a Third Party claiming that the rights granted hereunder will infringe on any patent or other proprietary right of such Third Party;

(c) it has not assigned or conveyed, and has not promised to assign or convey, any interest in any Patent Rights inconsistent with the rights granted under this Agreement;

(d) it has the good faith belief that it holds all rights necessary to grant to Licensee the licenses granted under this Agreement with respect to the OBI Know-How; and

(e) it has not assigned or conveyed, and has not promised to assign or convey, any interest in any OBI Know-How inconsistent with the rights granted under this Agreement.

6.2 Licensee's Warranties.

Licensee represents and warrants that, as of the Effective Date:

(a) to its knowledge, the execution, delivery and performance by Licensee of this Agreement do not contravene or constitute a default under any provision of applicable law or any agreement, judgment, injunction, order, decree or other instrument binding upon Licensee; and

(b) Licensee has no agreement with any Third Party that, by its terms and without a material breach of the terms of such agreement, materially and adversely affects the rights of Licensor or the obligations of Licensee under this Agreement.

6.3 Injunctive Relief:

The Parties recognize and agree that remedies at law for breach by the other Party of its obligations hereunder with respect to confidentiality, indemnification, and use of trade names and trademarks may be inadequate and each Party shall, in addition to any other rights which it may have, be entitled to injunctive relief.

LICENSEE ACKNOWLEDGES AND AGREES FOR THE EXPRESS WARRANTIES AND COVENANTS SET FORTH IN THIS SECTION 6, OBI PATENT RIGHTS AND THE OBI KNOWHOW IS PROVIDED *AS IS.* EACH PARTY DISCLAIMS ALL OTHER EXPRESS AND ALL IMPLIED WARRANTIES OF ANY TYPE REGARDING SUCH RIGHTS, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INFRINGEMENT OR TITLE, VALIDITY OR SCOPE OF ANY PATENT RIGHTS, OR ANY WARRANTY OF THE EFFICACY, QUALITY, FUNCTIONALITY OPERABILITY, USE OR PERFORMANCE OF THE LICENSED PRODUCT (INCLUDING WITHOUT LIMITATION, THE ISSUANCE OF ANY PATENT CONTAINED THEREIN OR THAT THE MANUFACTURE, USE OR SALE OF LICENSED PRODUCTS WILL NOT INFRINGE ANY PATENT OR ANY OTHER RIGHT OF ANY THIRD PARTY).

6.4 Assumption of Risk.

(a) Except as otherwise noted below, as between Licensee and OBI, Licensee assumes all responsibility for and all risk of damage or injury that may occur as a result of its, or its sublicensees', storing, filling and finishing, using, marketing, selling, offering to sell, importing, exporting or distributing Licensed Products. Licensee shall indemnify, defend, and hold OBI and its directors, officers, equityholders, agents, employees, Affiliates and representatives (each, an *"Licensor Indemnified Party,"* and collectively, *"Licensor Indemnified Parties")* harmless for any and all Third Party claims, suits, demands, proceedings, actions, damages, judgments, costs, liabilities, settlement costs or losses, including, without limitation, attorneys' fees, legal expenses, and costs arising from the actions of Licensee with respect to any Licensed Product used, sold, offered for sale, imported, exported, distributed, received or provided as a result of its licensing the OBI Patent Rights or the OBI Know-How under this Agreement, including without limitation (i) any products liability or similar claim for personal injury or property damage; (ii) claims or actions arising from or based on a breach of Licensee's representations and warranties set forth in this Agreement; (iii) claims or actions by Licensee's sublicensees arising from or based on a breach of Licensee's obligations under a sublicense agreement; and (iv) claims arising from clinical trial studies conducted by or on behalf of Licensee related to the Licensed Products, insofar as any such claims do not arise out of the negligence or willful misconduct of Licensor or Licensor Indemnified Party, as applicable. The foregoing right of indemnity for claims shall not be subject to the limitations of liability described in Article 7

6.5 Indemnification.

Subject to Section 6.5, Licensor shall indemnify, defend, and hold Licensee, its directors, officers, and employees, agents, Affiliates, and representatives (each, a *"Licensee Indemnified Party,"* and collectively, *"Licensee Indemnified Parties,"* and together with Licensor Indemnified Party or Licensor Indemnified Parties, the *"Indemnified Party"* and the *"Indemnified Parties,"* respectively) harmless for any and all Third Party claims, suits, demands, proceedings, actions, damages, judgments, costs, liabilities, settlement costs or losses, including, without limitation, attorneys' fees, legal expenses, and costs arising from Licensor's gross negligence, willful misconduct, or breach of the representations and warranties made hereunder insofar as any such claims do not arise out of the negligence or willful misconduct of Licensee or Licensee Indemnified Party, as applicable. The foregoing right of indemnity for claims shall not be subject to the limitations of liability described in Article 7.

6.6 Notice and Cooperation Requirements.

Subject to Section 6.7 below, any claim to which indemnification applies under Section 6.5 shall be referred to herein as an *"Indemnification Claim".* If any Indemnified Party intends to claim indemnification under this Article 6, the Indemnified Party shall notify the Party from whom it seeks indemnification (the *"Indemnifying Party")* in writing promptly upon becoming aware of any claim that is an Indemnification Claim (it being understood and agreed, however, that the failure by an Indemnified Party to give such notice shall not relieve the Indemnifying Party of its indemnification obligation under this Agreement except and only to the extent that Indemnifying Party is actually prejudiced as a result of such failure to give notice). The Indemnifying Party shall have the right to assume and control the defense of the Indemnification Claim at its own expense with counsel selected by the Indemnifying Party and reasonably acceptable to the Indemnified Party, provided, however, that the Indemnified Party shall have the right to retain its own counsel, with the fees and expenses to be paid by the Indemnifying Party, if representation of such Indemnified Party by the counsel retained by the Indemnifying Party would be inappropriate due to actual or potential differing interests between the Indemnified Party and any other party represented by such counsel in such proceedings. If the Indemnifying Party does not assume the defense of the Indemnification Claim as aforesaid, the Indemnified Party may defend the Indemnification Claim but shall have no obligation to do so. The Indemnifying Party shall not settle or compromise the Indemnification Claim in any manner which would have an adverse effect on the Indemnified Party's interests, without the prior written consent of the Indemnified Party, which consent, in each case, shall not be unreasonably withheld or delayed. The Indemnified Party shall reasonably cooperate with the Indemnifying Party at the Indemnifying Party's expense and shall make reasonably available to the Indemnifying Party all pertinent information under the control of the Indemnified Party, which information shall be subject to Section 8. The indemnification rights of the Indemnified Party contained herein are in addition to all other rights which such Indemnified Party may have at law or in equity or otherwise.

6.7 Infringement Claims

Notwithstanding anything in this Section 6 to the contrary, in the event that a Third Party asserts a claim challenging the validity or scope of any Licensor Patent Rights and/or the OBI Know-How, Licensor shall have the right to control the defense of such claim, at its sole expense, and none of Licensee or Licensee Indemnified Parties shall offer to settle, settle or otherwise compromise any such claim within the Field without such other Licensee's prior written consent, which consent shall not be unreasonably withheld or delayed.

Notwithstanding the foregoing, Licensor shall have no obligation to defend, or reimburse Licensee hereunder for any defense, to the extent that any such Third Party claim is brought forth in response to an enforcement action brought under Section 10 which Licensor does not approve, in writing, as provided in Section 10.2.1.

6.8 Insurance

(a) Licensee shall maintain at all times during the Term of the Agreement, and until the date that all statutes of limitation covering claims, actions or suits that may be brought for personal injury based on the packaging, labeling, sale, distribution or use of such Licensed Product have expired in all countries in the Territory., commercial general liability insurance from a recognized, creditworthy insurance company, on a claims-made basis, with endorsements for contractual liability and product liability, and with coverage limits of not less than $5,000,000 per occurrence, and which shall name Licensor as an "additional insured" thereunder. The minimum level of insurance set forth herein shall not be construed to create a limit on Licensee's liability hereunder.

(b) Notwithstanding the obligation set forth in Section 6.8(a) above, each Party shall at all times maintain in force at its sole cost and expense, with reputable insurance companies, general liability insurance and products liability insurance coverage in an amount reasonably sufficient to insure against liability. Within 10 days following written request of a Party, the other Party shall furnish a certificate of insurance evidencing such coverage as of such date, and, in the case of a modification or cancellation of such coverage, a new certificate of insurance evidencing coverage that meets the requirements in the first sentence of this Section 6.8.

7.0 LIMITATION OF LIABILITY

EXCEPT WITH RESPECT TO: (i) CLAIMS ARISING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND (ii) BREACHES OF A PARTY'S CONFIDENTIALITY OBLIGATIONS, NO PARTY SHALL BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR LOST DATA, REGARDLESS OF ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY AVAILABLE UNDER THIS AGREEMENT.

8.0 CONFIDENTIALITY

8.1 Obligations Regarding Confidential Information

(a) The Parties have entered into a Confidential Disclosure Agreement ("CDA") effective October 15, 2012 which is hereby incorporated by reference. The maintenance of confidential treatment to disclosed information shall continue for at least five (5) years after termination of this Agreement.

(b) Licensee and Licensor (as applicable, each a *"Receiver")* shall each use all reasonable steps to keep confidential, for the term of this Agreement and for five (5) years thereafter, and with respect to trade secrets, for so long as such trade secrets are protected, any Licensee know-how and Licensor know-how, as the case may be, and any other proprietary or business information provided or made available by the other Party (as applicable, each a *"Discloser")* hereunder *("Confidential Information"),* which steps shall include, without limitation, steps no less stringent than the Receiver employs to protect its own Confidential Information. Without the prior written consent of Discloser, Receiver shall not use (except as contemplated by this Agreement), or disclose to any Third Party, any Confidential Information of Discloser; provided, however, that the foregoing shall not apply to Confidential Information that Receiver can establish by written documentation:

(i) was publicly known at the time of disclosure by Receiver;

(ii) becomes publicly known, without Receiver's breach of this confidentiality restriction subsequent to such disclosure to Receiver hereunder;

(iii) was otherwise known by Receiver from a source (other than Discloser) lawfully having the right to possess and disclose such information without restriction;

(iv) was developed by Receiver independently of the disclosure by Discloser; or

(v) was known by Receiver without obligation to Discloser prior to receiving such information from Discloser.

8.2 Permitted Disclosures of Confidential Information

The foregoing shall not preclude the disclosure of Confidential Information by Receiver:

(a) to its legal representatives, Affiliates, agents, consultants, directors, outside subcontractors, sublicensees, development partners, and prospective investors under like confidentiality obligations on the part of the recipients and solely for the purposes of the Receiver fulfilling its obligations under this Agreement;

(b) to the extent required by law or regulation, provided that to the extent reasonably possible, Receiver shall give prompt written notice of the proposed disclosure to Discloser so as to allow Discloser an opportunity, at its own cost and expense, to object to such requirement and, if applicable, assure that confidential treatment will be accorded to such Confidential Information;

(c) to Regulatory Authorities, to the extent that such Confidential Information is reasonably required to be disclosed for the purpose of securing necessary governmental authorization for the clinical testing or marketing of Licensed Products or for the purpose of conducting clinical testing; or

(d) to the extent that such Confidential Information is reasonably required to be disclosed for the purpose of prosecuting or defending litigation; provided, however, the Receiver shall promptly notify the Discloser of such request and cooperate with the Discloser to obtain any and all possible protection for such Confidential Information prior to providing same to requestor, if such is ultimately required.

8.3 Confidentiality of This Agreement.

Except as otherwise provided in this Agreement or as may be required under federal securities laws, the terms of this Agreement shall not be disclosed by either Party to any Third Party or be published unless both Parties expressly agree in writing. The Parties acknowledge this may be a material contract as that term is defined by the Securities and Exchange Commission ("SEC") and as such may be subject to disclosure for that purpose.

8.4 Extension of Obligations.

Licensee shall require each of its sublicensees to agree in writing to be bound by all confidentiality obligations as set forth in this Section 8.

9.0 PATENTS

9.1 Patent Prosecution and Maintenance.

OBI shall maintain, be responsible for, and shall control all of the Licensor Patent Rights. The fees incurred for any new patents or trademarks not listed under Schedule A as of January 1, 2013 shall be borne by Licensee, who shall within thirty (30) days following receipt of invoices, reimburse Licensor one hundred percent (l00%) of all costs of prosecuting and maintaining such OBI Patent Rights incurred.

9.2 Further Assurances.

The Parties agree to execute, acknowledge and deliver all such further instruments, and to do all such other acts, as may be necessary or appropriate in order to carry out the intent and purposes of this Agreement.

9.3 Patent Marking.

Licensee shall, and shall require each of its sublicensees to, comply with all applicable laws with respect to patent marking, including without limitation patent marking for Licensed Products covered by composition claims in the OBI Patent Rights that Licensee and/or any of its sublicensees sells. Licensee shall provide copies of the patent mark to OBI for review and comment prior to commercial sale thereof.

10.0 ENFORCEMENT OF INTELLECUAL PROPERTY RIGHTS

10.1 Infringement Notice.

(a) If OBI becomes aware of any infringement or threatened infringement of any Licensor Patent Rights in the Field, then OBI shall give notice to Licensee within ten (10) business days of becoming aware of such infringement or threat.

(b) If Licensee becomes aware of any infringement or threatened infringement of any OBI Patent Rights in the Field, then Licensee shall give notice to OBI within ten (10) business days of becoming aware of such infringement or threat.

10.2 Enforcement Actions.

(a) In the case of any infringement of any OBI Patent Right by any Third Party (an "Infringer") in the Field during the Term, Licensee shall have the right and the obligation, at Licensee's expense, to cause such Third Party to cease such infringement and to otherwise enforce such Licensor Patent Right. Licensor shall assist Licensee as reasonably requested, at Licensee's expense, in taking any such action against any such Infringer. Any amount recovered as a result of any action taken by Licensee hereunder shall be retained by Licensee. If, following reasonable notice from the OBI, Licensee shall fail to take any action against any Infringer which Licensor may reasonably deem necessary or desirable to prevent such infringement or violation, or to recover damages therefore, in addition to any other remedy available to it, Licensor may, upon notice to Licensee, take any steps OBI may deem appropriate against such Infringer at OBI's own expense. Licensee shall assist OBI, at OBI's expense, as reasonably requested in taking any such action against any such Infringer. Any amount recovered as a result of any such action taken by OBI shall be retained solely by OBI. This paragraph shall survive the termination or expiration of this Agreement.

(b) No settlement, compromise, consent judgment or any voluntary final disposition of the suit may be entered into by Licensee without the prior written consent of OBI, which consent shall not be unreasonably withheld or delayed.

10.3 Patent Actions.

(a) In the event that Licensee files an action for a declaratory judgment of patent invalidity, initiates a re-examination or opposition proceeding, interference, or otherwise challenges the validity or enforceability of any of OBI’s Patent Rights (each a "Patent Action"):

(b) Such Patent Action will be resolved, upon written notice of its demand for arbitration ("Demand") to OBI, by arbitration under 35 U.S.C. 294 (and, in the event of an interference action, under 35 U.S.C. l35) and the United States Arbitration Act 9 U.S.C. ss. 1 et seq., to the extent not inconsistent with 35 U.S.C. 294 or 35 U.S.C. 135. The arbitration shall be administered by the American Arbitration Association ("AAA") under its Supplementary Rules for the Resolution of Patent Disputes and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitrator shall be appointed within thirty (30) days of the filing of a Demand and discovery shall be limited to a period of sixty (60) days. The written decision and award shall be rendered within six (6) months of the filing of the Demand. All arbitrator(s) eligible to conduct the arbitration must undertake in writing as a condition of service to render their opinion(s) promptly after the final arbitration hearing and to provide a reasoned written opinion setting forth the findings of fact and conclusions of law. Except to the extent entry of judgment and any subsequent enforcement may require disclosure, or except as required by law, all matters relating to the arbitration, including the award, shall be held in confidence by the parties.

(c) Licensee shall continue to pay all Annual Licensing Fees and other payment obligations due under this Agreement during the pendency of any Patent Action, without the right to recoup any amounts paid under this Agreement in the event that the Patent Action is upheld.

(d) In the event there is no judgment of invalidity or infringement with respect to the Licensor Patent Rights, Licensee shall reimburse all of Licensor's costs and expenses (including without limitation, attorneys' and experts' fees) arising from its defense of such action.

11.0 TERM & TERMINATION

11.1 Term.

(a) Unless terminated earlier, according to the provisions of sections 11.2 or 11.3, the premises and promises and this Agreement are in effect for five (5) years from the Effective Date.

(b) Either Party may terminate this Agreement in the event of breach of a material obligation of the other Party if such breach remains uncured thirty (30) days after written notice of such breach is delivered to such breaching Party.

(c) OBI may cancel this Agreement with ten (10) business days notice in the event of a failure to pay Annual License Fees or Royalty Fees when due.

11.2 Termination for Cause

(a) OBI shall have the right to terminate this Agreement immediately upon notice in the event VCD ceases to conduct its operations in the normal course of business, including inability to meet its obligations as they mature, or if any proceeding under the bankruptcy or insolvency laws is brought by or against VCD, or a receiver is appointed for VCD.

(b) OBI may terminate this Agreement without penalty immediately following written notice if Licensee (i) is the subject of any proceeding related to its liquidation or insolvency (whether voluntary or involuntary) which is not dismissed within ninety (90) calendar days or (ii) makes or attempts to make an assignment for the benefit of its creditors.

11.3 Effect of Termination

(a) Except as expressly set forth herein, all licenses, rights and obligations under this Agreement shall immediately end upon termination of this Agreement for any reason; provided, however, that termination of this Agreement shall not release any Party from any payment obligation that has accrued as of the effective date of the termination. Without limiting the foregoing, Licensee shall pay OBI, within thirty (30) days after such termination, amounts equal to all reimbursable expenses payments and all other payments which were owed by Licensee. In addition, for a termination other than expiration as set forth in Section 12.1, Licensee, its Affiliates, and sublicensees, as applicable, shall return to OBI within sixty (60) days of termination all tangible OBI Know-How and Confidential Information provided to Licensee by Licensor pursuant to this Agreement.

(b) Upon termination of this Agreement VCD shall pay to OBI all undisputed amounts then due and payable, including any due but unpaid Annual License Fees and Development Costs. VCD shall be responsible for the purchase of Product which constitute Firm Orders as of the effective date of termination; and OBI shall not otherwise be responsible for any material ordered by VCD in anticipation of forecasts or future orders or for costs or profits on Products not supplied.

(c) The respective rights and obligations of the Parties hereunder shall survive the termination or expiration of this Agreement to the extent necessary for the intended preservation of such rights and obligations including, but not limited to, insurance, indemnification, confidentiality, regulatory compliance, records retention, audit rights, and recall responsibilities.

(d) VCD shall pay Royalty Fees as they become due on any Product purchased prior to termination.

12.0 PRODUCT DEVELOPMENT

12.1 Product Development

(a) At the request of VCD, OBI shall use reasonable efforts to develop Product to meet VCD's needs.

(b) VCD has requested OBI to develop the following Products:

(i) Dermacyte Concentrate with a PFC content of fifty percent (50%) or greater

(ii) Dermacyte Eye Complex with a PFC content of twenty-five percent (25%) or greater

(iii) Dermacyte Day cream with a PFC content of one percent (1%) or greater

(iv) Dermacyte Night cream with a PFC content of percent (3%) or greater

12.2 Product Development Costs

(a) VCD shall be responsible for the payment of all costs for Product development ("Product Development Costs").

(b) OBI shall provide VCD with estimates for costs to be incurred and no costs shall be incurred by OBI until they have received seventy-five percent (75%) of the estimated costs.

(c) VCD shall reimburse OBI for the actual costs incurred within thirty (30) days of VCD's receipt of a final expense report from OBI,which will include a 10% markup for administrative overhead..

(d) All intellectual property and Know-How generated from or in connection with Product Development shall be owned exclusively by OBI and shall be incorporated as part of the License granted to Licensee hereunder.

12.3 Product Formulation

(a) OBI shall develop formulations for each Product requested by VCD. VCD shall have no right to independently develop formulations for Product. VCD shall approve all formulations prior to OBI's manufacture of Product.

(b) Product formulation costs will be considered Product Development Costs.

12.4 Safety Testing

(a) OBI shall conduct toxicology, stability and other safety tests ("Safety Testing") on all Product(s) prior to making such Product(s) available for purchase by VCD.

(b) All Safety Testing shall be considered Product Development Costs.

12.5 Cosmetic Clinical Trials

(a) Upon mutual agreement of the Parties, OBI shall conduct cosmetic clinical trials on Product(s).

(b) Such cosmetic clinical trials will be considered Product Development Costs.

(c) VCD shall have the right to review and approve all study protocols prior to implementation.

12.6 Packaging and Labeling

(a) OBI's obligations for packaging and labeling are limited to the packaging of bulk Product in a container that is appropriately labeled for shipment to VCD or VCD's designee.

(b) VCD shall be solely responsible for, and shall bear all costs of, the final packaging and labeling of all Licensed Product.

(c) OBI packaging, labeling and shipping shall be considered manufacturing costs.

13.0 PRODUCT SUPPLY

13.1 Delivery.

(a) VCD shall provide forecasts of the quantity of Product required for the next quarter ("Forecasted Orders") as part of their quarterly reports in accordance with section 5.2(b) above.

(b) VCD shall provide a Purchase Order for each Product sixty (60) days prior to delivery date ("Firm Order"). OBI shall furnish Products within the timeframe established at the time VCD requests the shipment. OBI agrees to use its best efforts to meet any request by VCD for delivery of Products prior to a delivery date stated in the applicable Purchase Order. OBI shall notify VCD of any Late Delivery and specify the estimated delivery date and the circumstances causing the delay, keeping VCD informed about the status of the Late Delivery.

(c) VCD shall be solely responsible for all transportation expenses and risk of loss or damage to Products. OBI shall ship Products in compliance with all Applicable Laws.

(d) OBI shall pack and ship all Products in accordance with the VCD shipping specifications given at the time the shipping request is made to ensure that no damage shall result during shipping.

(e) All shipments of Product delivered by OBI shall be accompanied by the appropriate Material Safety Data Sheet ("MSDS").

13.2 Pricing/Payment.

(a) Purchase price of Product will be OBI's actual manufacturing costs plus twenty-five percent (25%) for administrative overhead.

(b) Upon receipt of a Purchase Order signed by both parties, VCD will issue a payment equal to fifty percent (50%) of the total Purchase Order amount. All payments will be issued as follows, or in accordance with such other written instructions as OBI shall provide:

Oxygen Biotherapeutics, Inc.
Attention: Accounts Payable
ONE Copley Parkway, Suite 490
Morrisville, North Carolina 27560

(c) OBI shall prepare and deliver to VCD an invoice for each lot of released Product purchased hereunder. All invoices shall be submitted in writing issued as follows, or in accordance with such other written instructions as VCD shall provide:

Valor SA (Cosmetics Division)
Attention: Stéphane Ledermann
Boulevard de Grancy, 1
CH-1006 Lausanne
Switzerland

(d) All invoices shall be submitted contemporaneously with or subsequent to the release of Product under the Purchase Order. The invoices shall specify the price of the Product, the Purchase Order number, the quantity of Product actually released, and any prior amount paid by VCD to OBI against the applicable Purchase Order as provided for in section 12.2(a). In no event shall any invoice be dated prior to the date of release.

(e) Payment terms for each undisputed shipment of Products shall be net thirty (30) days from the date of invoice, provided that no invoice shall be dated prior to the delivery and acceptance of corresponding Products.

13.3 Specifications; Quality:

(a) OBI shall label and package Product in accordance with the provisions of all Laws, Product Specifications and Purchase Order specifications, as applicable.

(b) Product released pursuant to this Agreement shall comply with the Product Specifications. A Certificate of Analysis showing the Product name, lot or batch number, date of manufacture, release date, and the specifications and results of the analysis of all Product properties requested by VCD, will be provided by OBI with each lot of manufactured Product.

(c) Subject to Applicable Laws, neither the Product Specifications, nor any change in any Product that may alter its properties, impurities, or any other characteristic of the Products, may be changed without VCD's prior written consent. OBI shall not unreasonably withhold its agreement to any change in the Product Specifications requested by VCD. OBI shall not make any substitutions for Products ordered without the prior written approval of VCD.

(d) OBI is responsible for retaining samples of each lot of Product.

13.4 Notice of Claim or Rejection.

(a) In the event that VCD learns, or should reasonably learn, of any claim with respect to Product, VCD will inform OBI in writing of the claim. OBI's sole responsibility shall be replacement of Product. OBI will not be responsible for replacing or reimbursing the cost of the packaging, labeling, or other processing costs incurred by VCD.

(b) Should the Product fail to meet specifications during its labeled shelf life, VCD is responsible for the recall and disposition of Product

(c) In the event that a shipment of Product fails to conform to Purchase Order or to meet any warranty hereunder, VCD shall notify OBI within ten (10) days of receipt of Product. Notification of non-conformity must (1) be in writing, and (2) contain specific details regarding the nature of the defects, and (3) specify the specific Product(s) and Purchase Order the affected product was purchased under. Upon receipt of such notice, OBI shall advise VCD on whether to return such Product(s) to OBI or store them pending instructions from OBI as to their disposal. Issuance of the notice of non-conformity shall be deemed a rejection of that portion of the shipment which was non-conforming and payments made in advance of rejected Product shall be credited to the next Purchase Order or replacement Product will be immediately shipped, at OBIs sole discretion.

13.5 Audits.

VCD shall have the right to audit and inspect all inventory of the Products contained at OBI facility. Such audits or inspections shall occur not more than once per year (unless for cause), shall occur during business hours and shall be scheduled by VCD at least ten (10) days in advance. Purposes for such inspections may include compliance with Product Specifications, Purchase Orders, and/or investigations of complaints and/or compliance with any Laws or the terms of this Agreement. VCD's audit and inspection rights hereunder shall not extend to any portions of such facility, documents, records or other information: (i) which do not relate to the Products, or (ii) to the extent they relate or pertain to third parties or their products or materials.

13.6 Regulatory and Environmental Compliance:

(a) To the extent an Adverse Event of which a Party becomes aware implicates supply of the Product, such Party shall promptly inform the other Party of such Adverse Event and shall disclose to the other Party any information it has regarding that Adverse Event.

(b) If any Governmental Authority shall take any action which shall require a response or action by either Party with respect to Products, Product Specifications, or any operating procedure affecting the Products, the Parties shall immediately notify each other of the required response or action. This specifically includes receiving and responding to 483s and/or Warning Letters or items of a similar nature issued by an inspecting authority.

(c) In carrying out its obligations under this Agreement, the Parties shall comply in all respects with Applicable Laws in effect.

14.0 MISCELLANEOUS

14.1 Information Exchange.

During the Term of this Agreement, the parties shall promptly notify each other of any report of an adverse event associated with the use of any Licensed Product. Licensee shall have sole discretion in determining what action, if any, is to be taken in connection with any such adverse event report relating to a Licensed Product. Licensor shall have sole discretion in determining what action, if any, is to be taken in connection with such adverse event report relating to any other products.

14.2 Subcontracting.

The Parties acknowledge that each has the right to enter into subcontracts as they shall deem necessary in order to carry out their obligations under this Agreement. The use of such subcontractors shall not relieve either Party from any of its obligations or liabilities hereunder. Nothing herein shall constitute any contractual relationship between the non-subcontracting Party and any subcontractor of the subcontracting Party or any obligation on the part of the non-subcontracting Party to pay, or be responsible for the payment of, any sums to any such subcontractors. The subcontracting Party shall be responsible for all work performed by, and for acts, omissions, or negligence of its subcontractors and for compliance of its subcontractors with the requirements of this Agreement, and all Laws to the same extent that the subcontracting Party would be responsible if they were doing such work directly.

14.3 Force Majeure.

Subject to the provisions hereof, if supervening events, including, but limited to, natural disasters, acts of government after the Effective Date of this Agreement, power failure, acts of God, labor disputes, riots, acts of war, or epidemics, (each, a "Force Majeure Event"), beyond the reasonable control of a party hereto occur that render performance by such party of its obligations under this Agreement impossible, then such party is excused from whatever performance is rendered impossible by the Force Majeure Event ("Suspension of Performance"); provided that (i) such Force Majeure Event is unforeseeable, (ii) such party is without fault in causing such Force Majeure Event, (iii) such party informs the other party immediately of such Force Majeure Event, (iv) such party promptly informs the other party of the length of the expected delay, (v) such party takes all reasonable actions to avoid or overcome such Force Majeure Event, to mitigate damages hereunder, and to mitigate the length of any such Suspension of Performance, and (vi) such party, to the extent it is able, continue to perform its obligations under this Agreement, unless otherwise directed by the other party. A party's performance of covenants (i) to (iv) herein are conditions precedent to its Suspension of Performance and covenants (v) and (vi) herein are conditions precedent to its continued Suspension of Performance. If the Suspension of Performance continues, or is expected to continue, for more than sixty (60) days, then the other party is entitled to terminate this Agreement upon giving notice thereof to the party which is excused by the Suspension of Performance. Force Majeure Event includes the unavailability of materials, equipment or transportation that is caused by a Force Majeure Event. Force Majeure Event does not include economic hardship, changes in market conditions, unavailability of materials, equipment or transportation that is caused by an event other than a Force Majeure Event, or insufficiency of funds.

14.4 Independent Contractor.

In all matters relating to this Agreement, the Parties shall be acting as independent contractors. Neither Party shall have any authority to and shall not assume or create any obligation, express or implied, on behalf of the other Party and shall have no authority to and shall not represent itself as an agent, employee, or in any other capacity of such other Party.

14.5 No Third Party Beneficiaries:

No provision of this Agreement shall in any way inure to the benefit of any third person so as to constitute to any such person a third-party beneficiary of this Agreement or otherwise give rise to any cause of action in any person not a party hereto.

14.6 Assignment.

Licensee may not assign any of its rights or delegate any performance under this Agreement without OBI's prior written consent, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Licensee may freely assign all of its rights and delegate its entire performance under this Agreement: (i) in connection with the acquisition of all, or substantially all, of its assets, or any merger, acquisition or reorganization of or by Licensee. Any purported assignment or delegation of this Agreement in violation of this Section shall be null and void and of no effect. Subject to the foregoing provisions, this Agreement shall be binding upon and inure to the benefit of all successors and permitted assigns of Licensee and Licensor.

14.7 Severability.

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity of enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If the final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the Parties agree that the court making the determination of invalidity or unenforceability shall have the power to reduce the scope, duration, or area of the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable, and this Agreement shall be enforceable as so modified after the expiration of the time within which the judgment may be appealed.

14.8 Waiver.

It is agreed that no delay or omission to exercise any right, power, or remedy accruing to any Party, upon any breach, default or noncompliance under this Agreement shall impair any such right, power, or remedy, nor shall it be construed to be a waiver of any such breach, default or noncompliance, or any acquiescence therein, or of any similar breach, default or noncompliance thereafter occurring. It is further agreed that any waiver, permit, consent, or approval or on part or noncompliance under this Agreement or any waiver by a Party of any provisions or conditions of this Agreement must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement, by law, or otherwise afforded to the Parties, shall be cumulative and not alternative.

14.9 Dispute Resolution.

(a) Except as set forth in Section 10.3, all disputes, claims, or controversies arising out of or relating to this Agreement or the negotiation, validity or performance hereof that are not resolved by mutual agreement shall be finally and exclusively settled by binding arbitration to be conducted under the Rules of Arbitration of the International Chamber of Commerce ("ICC Rules") or its successor in accordance with the procedure set forth in this Section.

(b) The arbitration shall be held in Raleigh, North Carolina before a single arbitrator appointed in accordance with the ICC Rules.

(c) The Parties covenant and agree that the arbitration shall commence within ninety (90) days of the date on which a written demand for arbitration is filed by any Party hereto and shall proceed and be completed expeditiously thereafter. Each Party agrees to select one arbitrator within thirty (30) days of the commencement of the arbitration and the arbitrators selected by the Parties will select the arbitrator who will preside over the dispute. The arbitrator shall have the power to order the production of documents by each Party and any Third-Party witness that the arbitrator deems to be relevant to the issues in dispute. The arbitrator's decision and award shall be made and delivered within ninety (90) days of the conclusion of the arbitration proceeding. The arbitrator's decision shall set forth in writing a reasoned basis for any award of damages or finding of liability. It is the intent of the Parties that the arbitration proceed in a manner that is efficient and cost-effective.

(d) The Parties covenant and agree that they will participate in the arbitration in good faith and that they will share equally its costs, except as otherwise provided herein. The arbitrator may in his or her discretion assess costs and expenses (including the reasonable legal fees and expenses of the prevailing Party) against any Party to a proceeding. Any Party unsuccessfully refusing to comply with an order of the arbitrator shall be liable for costs and expenses, including attorneys' fees, incurred by the other Party in enforcing the award. This Section applies equally to requests for temporary, preliminary or permanent injunctive relief, except that in the case of temporary or preliminary injunctive relief any Party may proceed in court without prior arbitration for the limited purpose of avoiding immediate and irreparable harm. The provisions of this Section shall be enforceable in any court of competent jurisdiction.

14.10 Consent to Jurisdiction.

Each of the Parties hereto irrevocably and unconditionally consents to the exclusive jurisdiction of the ICC Rules to resolve all disputes, claims or controversies arising out of or relating to this Agreement or the negotiation, validity or performance hereof, and further consents to the jurisdiction of any state court of North Carolina for the purpose of enforcing the arbitration provisions of this Agreement and enforcing any arbitrator's award; provided, however, that to the extent necessary to avoid irreparable harm, either Party may seek temporary or preliminary injunctive relief in accordance with Section 14.9 above. Each Party further irrevocably waives any objection to proceeding before the arbitrator based upon lack of personal jurisdiction or to the laying of venue and further irrevocably and unconditionally waives and agrees not to make a claim in any court that arbitration hereunder has been brought in an inconvenient forum. Each of the Parties hereto hereby consents to service of process by registered mail at the address to which notices are to be given. Each of the Parties hereto agrees that its submission to jurisdiction and its consent to service of process by mail is made for the express benefit of the other Parties hereto.

14.11 Joint Drafting.

The Parties have participated jointly in the negotiation and drafting of this Agreement with counsel sophisticated in licensing transactions. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of this Agreement.

14.12 Governing Law.

This Agreement shall be construed, and the respective rights and obligations of the Parties determined, according to the substantive laws of the State of North Carolina, notwithstanding any contrary conflict of laws provisions thereof; provided that matters of intellectual property law shall be determined in accordance with the national intellectual property laws relevant to the intellectual property in question.

14.13 Bankruptcy/Insolvency.

(a) All licenses granted under this Agreement by either Party to the other Party including, without limitation, licenses of any interests in the (i) the Licensor Patent Rights, (ii) the OBI Know-How, (iii) the Licensed Products, and any embodiments of any such intellectual property and all other intellectual property in which Licensor has any interest (collectively, the "Intellectual Property"), for all purposes of Section 365 of Title 11 of the United States Code ("Title 11"), constitute "intellectual property" as defined in Title 11. During the term of this Agreement, each Party shall create and maintain current copies to the extent practicable of all such Intellectual Property. If a bankruptcy proceeding is commenced by or against OBI under Title 11 (a "Bankrupcy Proceeding"), the Licensee shall be entitled to obtain and retain a copy of any and all such Intellectual Property, and the same, if not already in the possession of Licensee at the commencement of the Bankruptcy Proceeding, shall be promptly delivered by the Party which commenced the Bankruptcy Proceeding or its duly appointed Trustee in the Bankruptcy Proceeding (the "Trustee") to Licensee upon the written request of Licensee. If Licensor or OBI commences a Bankruptcy Proceeding and that Party or its Trustee rejects this Agreement pursuant to Section 365 of Title 11, Licensee may, in its sole and absolute discretion, elect pursuant to Section 365(n) of Title 11 to either (i) retain all rights granted to Licensee under this Agreement to the extent permitted by law, including, without limitation, all rights to enforce all exclusivity provisions with respect to the Intellectual Property and any agreements supplementary to this Agreement to the Intellectual Property and any embodiments of the Intellectual Property or (ii) treat this Agreement as terminated.

(b) In the event that (i) a Bankruptcy Proceeding is commenced by OBI or (ii) this Agreement is rejected in a Bankruptcy Proceeding of OBI pursuant to Section 365 of Title 11, Licensee retains all rights, in its sole and absolute discretion, to enforce its exclusive license, in the Territory to all of the Intellectual Property as set forth in this Agreement, with the right to sublicense (subject to the terms of this Agreement) under the Licensor Patent Rights, to develop, make, have made, use, sell, offer to sell, import, export, distribute, manufacture and otherwise commercialize the Licensed Products in the Field; provided, however, that Licensee shall continue to fulfill its royalty obligations under this Agreement. Licensee agrees to pay Licensor, or any Trustee in such Bankruptcy Proceeding of Licensor, a royalty for such a license equivalent to the license royalty provision provided in this Agreement and these rights shall survive termination or expiration of this Agreement pursuant to a Bankruptcy Proceeding.

14.14 Remedies.

Unless otherwise set forth herein, the rights and remedies set forth in this Agreement are cumulative with and not exclusive of any other remedy. The exercise by either Party of any right or remedy conferred by this Agreement does not preclude the exercise of any other rights or remedies that may now or subsequently exist in law or in equity or by statute or otherwise. It is specifically understood and agreed that any breach of the provisions of this Agreement will result in irreparable injury to the other Party hereto, that the remedy at law alone will be an inadequate remedy for such breach, and that, in addition to any other legal or equitable remedies which such Party may have, such other Party may enforce their respective rights by actions for specific performance (to the extent permitted by law)

14.15 Export Law.

Notwithstanding anything to the contrary contained herein, all obligations of Licensee and Licensor are subject to prior compliance with the export regulations and such other laws and regulations of the countries in which they reside or perform any activities under this Agreement and to obtaining all necessary approvals required by the applicable agencies of the governments of those countries.

14.16 Ownership of Enhancements.

Any changes, modifications, refinements, improvements or other enhancements to the Licensor Patent Rights and/or the OBI Know How developed by Licensee shall be owned exclusively by Licensor.

14.17 Entire Agreement.

This Agreement, the recitals and any attachments, schedules or exhibits appended hereto, embody the entire understanding between the Parties relating to the subject matter hereof and supersede all prior understandings and agreements, whether written or oral. None of the terms of this Agreement can be modified, amended or waived except by an instrument in writing executed by authorized representatives of each Party.

14.18 Headings.

Headings in this Agreement are included for ease of reference only and have no legal effect.

14.19 Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. One or more counterparts of this Agreement or any exhibit or schedule hereto may be delivered via FAX or e-mail, with the intention that they shall have the same effect as an original counterpart hereof.

14.20 Survival.

The respective rights and obligations of the Parties hereunder shall survive the termination or expiration of this Agreement to the extent necessary for the intended preservation of such rights and obligations related to insurance, indemnification, confidentiality, regulatory compliance, records retention, audit rights, and recall responsibilities and specifically sections 4.2, 6.4, 6.5, 6.6, 6.7, 6.8(a), 7.8, 13.4, 14.7, 14.9, 14.10, 14.12, 14.13(b) and 14.14.

IN WITNESS WHEREOF, the parties have executed this License And Supply Agreement and acknowledge they have the authority to enter into this agreement.

OXYGEN BIOTHERAPEUTICS, INC.	**VALOR SA**
By/Signature: _____	By/Signature:_____
Name: Michael Jebsen	Name: _____
Title: President, Chief Financial Officer	Title: _____
Date: _____	Date: _____

EXHIBIT 10.70

SETTLEMENT AGREEMENT

This Settlement Agreement and Mutual Release (hereinafter "Settlement Agreement") is entered into effective as of March __, 2013 (“Effective Date”) by and between Oxygen Biotherapeutics, Inc. (“OBI”) and Tenor Opportunity Master Fund, Ltd., Aria Opportunity Fund, Ltd. and Parsoon Opportunity Fund, Ltd. (collectively "Tenor"), both of which are sometimes collectively referred to as the "Parties" and is made with reference to the following:

1. RECITALS

a. Tenor is a Plaintiff and OBI is the Defendant in the following litigation (the "Litigation") pending in the United States District Court for the Southern District of New York: *Tenor Opportunity Master Fund, Ltd., Aria Opportunity Fund, Ltd. and Parsoon Opportunity Fund, Ltd. v. Oxygen Biotherapeutics, Inc.*, Case No. 11 Cv 6067(KBF).

b. Tenor and OBI were Parties to a Subscription Agreement dated May 4, 2010, which was the subject of the Litigation (the “Subscription Agreement”).

c. Each of the Parties to this Settlement Agreement desire to permanently settle and resolve any and all claims, disputes, issues or matters that exist between them as of the date of this Settlement Agreement and to dismiss with prejudice the Litigation.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth herein and subject to the terms and conditions set forth below, the Parties hereby resolve their differences and agree as follows:

2. SETTLEMENT TERMS

In consideration hereof, concurrently with the execution and filing of the Dismissal as described in section 4(d) below, OBI will pay Tenor the sum of one hundred thousand dollars ($100,000) (“Initial Payment”) by wire transfer on the day after Tenor delivers to OBI a fully executed copy of this Settlement Agreement pursuant to wire transfer instructions to be furnished by Tenor in conjunction with its execution and delivery of this Settlement Agreement.

a. Beginning on the first day of each calendar quarter following the Initial Payment, OBI will pay to Tenor by wire transfer five additional payments in the amount of one hundred thousand dollars ($100,000) plus interest accrued thereon from the date of this Settlement Agreement to the date of payment at the rate of fifteen percent (15%) per year (“Quarterly Payments”).

b. Should OBI enter into a transaction whereby cash proceeds are paid to OBI ("Financing") or OBI receives assets of value or the aggregate sum of cash proceeds and assets received from a series of transactions during a trailing twelve (12) month period exceeds one million dollars ($1,000,000) prior to the last Quarterly Payment being made, OBI shall pay to Tenor an Escalated Payment on a pro-rata basis as follows, with the Quarterly Payments thereafter adjusted so that the aggregate of sums paid to Tenor under this Settlement Agreement equals six hundred thousand dollars ($600,000) in aggregate plus any interest accrued thereon as provided for in this Settlement Agreement ("Total Settlement Amount") :

   i. Financing of five million dollars ($5,000,000) or greater: the aggregate of all Quarterly Payments that remain due shall be paid within five (5) business days of OBI's receipt of proceeds from the Financing.

   ii. Financing of four million dollars ($4,000,000) or greater: eighty percent (80%) of the aggregate of all Quarterly Payments that remain due shall be paid within five (5) business days of OBI's receipt of proceeds from the Financing. Any remaining balance of the Total Settlement Amount following this Escalated Payment to be paid in regularly scheduled Quarterly Payments as provided for under section 2(a) above.

   iii. Financing of three million dollars ($3,000,000) or greater: sixty percent (60%) of the aggregate of all Quarterly Payments that remain due shall be paid within five (5) business days of OBI's receipt of proceeds from the Financing. Any remaining balance of the Total Settlement Amount following this Escalated Payment to be paid in regularly scheduled Quarterly Payments as provided for under section 2(a) above.

   iv. Financing of two million dollars ($2,000,000) or greater: forty percent (40%) of the aggregate of all Quarterly Payments that remain due shall be paid within five (5) business days of OBI's receipt of proceeds from the Financing. Any remaining balance of the Total Settlement Amount following this Escalated Payment to be paid in regularly scheduled Quarterly Payments as provided for under section 2(a) above.

   v. Financing of one million dollars ($1,000,000) or greater: twenty percent (20%) of the aggregate of all Quarterly Payments that remain due shall be paid within five (5) business days of OBI's receipt of proceeds from the Financing. Any remaining balance of the Total Settlement Amount following this Escalated Payment to be paid in regularly scheduled Quarterly Payments as provided for under section 2(b) above.

c. If a scheduled payment date falls on a non-business day, the payment shall be made on the first business day following the payment due date. Such delay shall not be deemed a breach of this Settlement Agreement. For purposes of this provision, a non-business day shall be Saturday, Sunday or any day which OBI has designated as a company closure in Exhibit A attached hereto and incorporated herein by reference, or when a state of emergency has been declared for any portion of North Carolina within a fifty (50) mile radius of OBI's Corporate Headquarters.

3. NOTICE AND BREACH

a. In the event of any breach of any obligation under this Settlement Agreement, the non-breaching Party shall provide the breaching Party three (3) business days written notice of breach and opportunity to cure, which may be delivered via electronic mail, overnight courier, facsimile or hand delivery service, delivered in accordance with the Notice provision of this Settlement Agreement. If and to the extent any breach is not curable, no such notice shall be required.

b. In the event OBI breaches its obligation to make any payment under this Settlement Agreement and such breach is not cured after notice within the period provided for in this section, all amount remaining payable or to come due under this Settlement Agreement shall immediately be accelerated and become due and payable, including interest thereon at the rate provided for in paragraph b of this section from the date of this Settlement Agreement to the date of payment.

c. It shall be a breach of this Settlement Agreement and constitute a default of payment obligations in the event that OBI shall (i) have entered involuntarily against it an order for relief under the Bankruptcy Code, as amended; (ii) not pay, or admit in writing its inability to pay, its debts generally as they become due; (iii) make an assignment for the benefit of creditors; (iv) apply for, seek, consent to or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property; (v) institute any proceeding seeking to have entered against it an order for relief under the Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it; (vi) take any action in furtherance of any matter described in parts (i) through (v) above; and (vii) fail to contest in good faith any involuntary bankruptcy proceeding or other attempt of creditors to seek relief for failure of OBI to pay its debts when due.

d. If OBI shall default on any payment due under this Settlement Agreement or is in breach pursuant to paragraphc. of this section, in addition to amounts otherwise due and payable, Tenor shall be entitled to recover and receive from OBI its reasonable costs and expenses of collection of such amounts, or enforcement of its rights under this Settlement Agreement, which costs and expenses shall include, but not be limited to reasonable attorneys' fees.

4. RELEASES AND DISMISSAL OF THE LITIGATION

a. **Tenor Release**. Tenor, on behalf of its constituent entities and each of their agents, employees, representatives, partners, officers, parents, shareholders, directors, subsidiaries, attorneys, predecessors, successors and assigns does hereby irrevocably release, acquit and forever discharge OBI and each of its respective agents, employees, representatives, parents, shareholders, directors, subsidiaries, officers, directors, attorneys, jointly and severally (the "OBI Releasees"), of and from any and all debts, suits, claims, actions, causes of action, controversies, demands, rights, damages, losses, expenses, costs, attorneys' fees, compensation, liabilities and obligations whatsoever (hereinafter referred to collectively as "Claims"), suspected or unsuspected, known or unknown, foreseen or unforeseen, arising at any time up to and including the date of this Settlement Agreement, which Tenor may now have or at any time heretofore may have had, or which at any time hereafter may have or claim to have against the OBI Releasees, relating to, arising from, or concerning any claim asserted in the Litigation, or any other claim relating to or otherwise arising from the sale of convertible debt securities of OBI consummated on June 30, 2011 and July 1, 2011 (hereinafter "Released Claims"). For avoidance of doubt, except as expressly provided herein, Tenor does not release OBI from any obligations remaining or existing under the Subscription Agreement.

b. **OBI Release**. OBI, on behalf of itself and its constituent entities and each of their agents, employees, representatives, partners, officers, parents, shareholders, directors, subsidiaries, attorneys, predecessors, successors and assigns does hereby irrevocably release, acquit and forever discharge Tenor and each of its respective agents, employees, representatives, parents, shareholders, directors, subsidiaries, officers, directors, attorneys, jointly and severally (the "Tenor Releasees"), of and from any and all debts, suits, claims, actions, causes of action, controversies, demands, rights, damages, losses, expenses, costs, attorneys' fees, compensation, liabilities and obligations whatsoever (hereinafter referred to collectively as "Claims"), suspected or unsuspected, known or unknown, foreseen or unforeseen, arising at any time up to and including the date of this Settlement Agreement, which OBI may now have or at any time heretofore may have had, or which at any time hereafter may have or claim to have against the Tenor Releasees, relating to, arising from, or concerning the Subscription Agreement, the Litigation or the subject matter thereof (hereinafter "Released Claims"). For avoidance of doubt, except as expressly provided herein, OBI does not release Tenor from any obligations remaining or existing under the Subscription Agreement.

c. If and to the extent applicable the Parties and their representatives, heirs and assigns expressly waive and release any right or benefit which they have or may have under Section 1542 of the Civil Code of the State of California and any other statute or common law doctrine of like effect, to the fullest extent that they may waive all such rights and benefits pertaining to the matters released herein. It is the intention of the Parties, through this Settlement Agreement and with the advice of counsel, to fully, finally and forever settle and release all such matters and all claims relative thereto, in furtherance of this intention.

d. **Dismissal With Prejudice**. Tenor, upon execution and delivery of this Settlement Agreement and receipt of the Initial Payment as provided for in section 2(a) above, shall execute and deliver to OBI a Stipulation Of Voluntary Dismissal ("Dismissal"), in the form attached hereto and incorporated herein by reference as Exhibit B.

5. NOTICES

a. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other Party shall be addressed to the other Party at the address set forth below. Any Party may change his/his/its address by notifying the other Parties of their change of address(es) in writing. Any such notice shall be effective three (3) days after dispatch if mailed via First Class Mail, on the day after dispatch if delivered via pre-paid overnight courier and when dispatched if delivered via electronic mail or on the date of delivery if otherwise delivered via hand delivery service to the below addresses.

Oxygen Biotherapeutics, Inc.
Attn: General Counsel
One Copley Parkway, Suite 490
Morrisville, NC 27560

Tenor Capital Management Company LP
Attn: Waqas Khatri / Dan Kochav
1180 Avenue of the Americas, Suite 1940
New York, NY 10036
wkhatri@tenorcapital.com
dkochav@tenorcapital.com

Also, forwarding a copy of same to:

David Dunn, Esq.
Hogan Lovells US LLP
875 Third Avenue
New York, NY 10022
david.dunn@hoganlovells.com

6. MISCELLANEOUS PROVISIONS

a. In order to carry out the terms and conditions of this Settlement Agreement, the Parties agree to promptly execute upon reasonable request any and all documents and instruments necessary to effectuate the terms of this Settlement Agreement.

b. By entering into this Settlement Agreement, no party admits or acknowledges that they committed any wrongdoing on their part or where a court of competent jurisdiction has held or might have held that a wrongdoing was committed, that such wrongdoing damaged the other Party in any manner. The Parties acknowledge and agree that amounts paid by OBI under this Settlement Agreement are being made solely to avoid the costs of defense of further litigation.

c. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New York without reference to its rules regarding choice or conflict of laws. Any action brought by OBI or Tenor for breach of this Settlement Agreement shall be filed in the United States District Court for the Southern District of New York. Subsequent changes in New York law or federal law through legislation or judicial interpretation that creates or finds additional or different rights and obligations of the Parties shall not affect this Settlement Agreement.

d. This Settlement Agreement, along with the Dismissal, is the entire agreement between the Parties with respect to the Released Claims or subject matter of this Settlement Agreement and supersedes all prior and contemporaneous oral and written agreements and discussions pertaining to the Released Claims or subject matter of this Settlement Agreement. Any representations, promise or condition in connection herewith not specifically incorporated herein shall not be binding upon any Party. This Settlement Agreement may not be modified except in a writing signed by authorized representative of all Parties.

e. No breach of any provision of this Settlement Agreement can be waived unless in writing signed by the Party to be charged with such a waiver. Waiver of any one breach of any provision hereof, in whole or in part, shall not be deemed to be a waiver of any other breach of the same or any other provision hereof.

f. This Settlement Agreement shall be binding upon and inure to the benefit of the successors and assigns of each Party; provided, however, that a Party may not assign this Settlement Agreement in whole or in part without obtaining the prior written approval of the other Party, except that a Party shall have the right to assign this Agreement without the consent of the other Party to any affiliate or to any purchaser of that Party's entire business or of substantially all of that Party's assets relating to the subject matter of this Settlement Agreement.

g. The Parties each represent and warrant they have not assigned all or any portion of any claim pertaining to the Released Claims to any person or entity. In the event any claims are made by any third persons or entities based upon any purported assignment or any such liens or claims are asserted in connection with the Released Claims or proceeds of the Settlement Agreement, then the Party who has breached his representation or warranty contained herein agrees to indemnify and hold harmless the other Party from any said claims being made.

h. If any one or more of the provisions of this Settlement Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this Settlement Agreement shall not in any way be affected or impaired thereby. If such condition, covenant or other provisions shall be deemed invalid due to its scope or breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

i. Each of the Parties represent and declare that in executing this Settlement Agreement, they relied solely upon their own judgment, belief and knowledge and on the advice and recommendations of their own independently selected counsel, concerning the nature, extent and duration of their rights and claims and that they have not been influenced to any extent whatsoever in executing the same by any representations or statements covering any matters made by any of the Parties hereto or by any person representing them. The Parties each acknowledge that neither they nor any of their representatives have made any promise, representation or warranty whatsoever, written or oral to any other Party, as any inducement to enter into this Settlement Agreement, except as expressly set forth in this Settlement Agreement.

j. This Settlement Agreement is the result of negotiation and compromise among the Parties and no Party shall be prejudiced as having been the drafter of the Settlement Agreement or any related exhibits incorporated therein. Ambiguities shall not be construed against the interest of either Party solely by reason of it having drafted all or any part of this Settlement Agreement. Headings of sections and paragraphs are for convenience of the parties only and are not a part of this Settlement Agreement and shall not be considered in the interpretation or construction of this Settlement Agreement.

k. Each Party further represents and warrants that it has carefully read this Settlement Agreement and knows and understands the contents and that it executed this Settlement Agreement freely and voluntarily and having had the benefit of the advice of legal counsel of its choosing.

l. This Settlement Agreement may be executed in any number of identical counterparts, each of which shall be an original, which together constitute one and the same instrument, which shall be binding and effective as to all Parties. This Settlement Agreement may be executed via facsimile or other form of electronically transmitted signature, which shall have the same force and effect as if they were original signatures.

m. Each Party warrants and represents that it has all necessary right, title and authority to enter into this Settlement Agreement, to grant the rights and interests herein granted and to perform all of its obligations under this Settlement Agreement and that any person executing this Agreement on its behalf is duly authorized to do so.

n. The provisions and existence of this Settlement Agreement may not be cited by any Party as an admission of any issue of fact or law, except in an action to enforce or for breach of this Settlement Agreement. It is understood and agreed that if the foregoing provision is breached by either Party, the non-breaching Party may be entitled to injunctive or other equitable relief to prevent such a breach. Any non-breaching Party seeking such injunctive relief will not be obligated to secure any bond or give any security in connection with the application for such relief. The right to seek injunctive relief is in addition to all other rights, remedies and forms of relief which may be available. In furtherance of the foregoing, any and all press releases relating to the subject matter hereof shall be mutually agreed upon.

IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be duly executed as of the date first written above and each signatory affirms they have the authority to enter into this agreement on behalf of the Party they represent and each Party covenants that this instrument and the execution of the exhibits is a voluntary act of each Party and the manner of execution is sufficient to constitute a binding agreement on its behalf.

OXYGEN BIOTHERAPEUTICS, INC.	**TENOR OPPORTUNITY MASTER FUND, LTD., ARIA OPPORTUNITY FUND, LTD. AND PARSOON OPPORTUNITY FUND, LTD.**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT A

OBI COMPANY CLOSURE SCHEDULE

Martin Luther King Day: January 21, 2013 (Monday)

Presidents' Day: February 18, 2013 (Monday)

Memorial Day: May 27, 2013 (Monday)

Independence Day: July 4, 2013 and July 5, 2013 (Thursday and Friday)

Labor Day: September 2, 2013 (Monday)

Thanksgiving: November 28, 2013 and November 29, 2013 (Thursday and Friday)

Christmas through New Years: December 23, 2013 through January 1, 2014
(reopen January 2, 2014)

EXHIBIT B

Stipulation Of Voluntary Dismissal

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TENOR OPPORTUNITY MASTER FUND, LTD., ARIA OPPORTUNITY FUND, LTD. & PARSOON OPPORTUNITY FUND, LTD.,

Plaintiffs, 11-cv-06067 (KBF)

v.

OXYGEN BIOTHERAPEUTICS, INC.,

Defendant.

STIPULATION OF VOLUNTARY DISMISSAL PURSUANT TO F.R.C.P. 41(a)(1)(A)(ii)

IT IS HEREBY STIPULATED AND AGREED, by and between the parties and/or their respective counsel that the above-captioned action is voluntarily dismissed, with prejudice, against the defendant Oxygen Biotherapeutics, Inc. pursuant to the Federal Rules of Civil Procedure 41(a)(1)(A)(ii).

Dated: New York, New York
March __, 2013

GUSRAE KAPLAN NUSBAUM PLLC

By:_____
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Attorney for Plaintiffs

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We hereby consent to the incorporation by reference in the Registration Statement of Oxygen Biotherapeutics, Inc. on Form S-8 (No. 333-167175) and related prospectuses as well as the Registration Statement of Oxygen Biotherapeutics, Inc. on Form S-3 (No. 333-165733), Form S-3 (No. 333-187441) and Form S-3 (No. 333-187888) of our audit report dated June 26, 2013, with respect to the financial statements of Oxygen Biotherapeutics, Inc., which report appears in the Annual Report on Form 10-K of Oxygen Biotherapeutics, Inc. for the years ended April 30, 2013 and 2012 .

/s/ CHERRY BEKAERT LLP

Raleigh, North Carolina
June 26, 2013

Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER AND PRINCIPAL FINANCIAL OFFICER

I, Michael B. Jebsen, certify that:

1. I have reviewed this Annual Report on Form 10-K of Oxygen Biotherapeutics, 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. I am responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: June 26, 2013

OXYGEN BIOTHERAPEUTICS, INC.

By: /s/ Michael B. Jebsen
Michael B. Jebsen
Chief Financial Officer and Interim Chief Executive Officer

Exhibit 32.1

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 Annual Report of Oxygen Biotherapeutics, Inc. (the "Company") on Form 10-K for the period ended April 30, 2013 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael B. Jebsen, Interim Chief Executive Officer, President and Chief Financial Officer (Principal Executive Officer and Principal Financial Officer) of the Company, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 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.

Date: June 26, 2013

/s/ Michael B. Jebsen
Michael B. Jebsen
Interim Chief Executive Officer,
President and Chief Financial Officer
(Principal Executive Officer)
(Principal Financial Officer)

The foregoing certification is being furnished solely to accompany the Report pursuant to 18 U.S.C. Section 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing.