Cardium Therapeutics, Inc.
Form DEF 14A
April 29, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a)

of the Securities Exchange Act of 1934

Filed by the Registrant x

Filed by a Party other than the Registrant ¨

Check the appropriate box:

¨ Preliminary Proxy Statement
x Definitive Proxy Statement
¨ Definitive Additional Materials
¨ Soliciting Material Pursuant to § 240.14a-12

¨ **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

CARDIUM THERAPEUTICS, INC.

(Name of Registrant as Specified in its Charter)

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

Payment of Filing Fee (Check the appropriate box):

x No fee required

¨ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

¨ Fee paid previously with preliminary materials:

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(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

CARDIUM THERAPEUTICS, INC.

NOTICE OF 2013 ANNUAL MEETING OF STOCKHOLDERS

Date: Thursday, June 6, 2013

Time: 9:00 a.m., Pacific Time

Place: San Diego Marriott Del Mar

11966 El Camino Real

San Diego, California 92130

To our Stockholders:

You are cordially invited to attend the annual meeting of stockholders of Cardium Therapeutics, Inc. to consider and act upon the following matters:

1 To elect two Class I directors, each to serve until the next annual meeting of stockholders held to elect Class I directors and until their respective successor is elected and qualified;

2 To approve, on a non-binding advisory basis, the compensation of our named executive officers as disclosed pursuant to the compensation disclosure rules of the SEC;

3 To approve, on a non-binding advisory basis, the frequency of our advisory stockholder vote on the compensation of our named executive officers every 1, 2 or 3 years;

4 To approve the issuance of an additional 1,656 shares of Series A Convertible Preferred Stock in connection with the April 2013 registered direct offering, for the receipt of gross proceeds of approximately $1,656,000;

5 To give our Board of Directors the authority, at its discretion, to affect a reverse split of our outstanding common stock;

6 To approve an amendment to the Company s Amended and Restated Certificate of Incorporation which amendment would ONLY be entered in the event that Proposal 5 related to the reverse stock split is NOT approved and which would increase the number of authorized shares of common stock of the Company from 200,000,000 to 400,000,000;

7 To ratify the selection of Marcum LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2013; and

8 To transact such other business as may properly come before the meeting or any adjournment or postponement thereof.

We recommend that you vote FOR Proposals 1, 2 and 4 through 7 and vote 3 YEARS for Proposal 3.

The foregoing matters are more fully described in the proxy statement accompanying this notice. Stockholders of record at the close of business on April 26, 2013, the record date fixed by the Board of Directors, are entitled to notice of and to vote at the meeting and at any adjournment or

postponement thereof.

IMPORTANT NOTICE REGARDING AVAILABILITY OF PROXY MATERIALS FOR THE STOCKHOLDER MEETING TO BE HELD ON June 6, 2013: This notice of meeting, the proxy statement and annual report to stockholders are available on-line at www.edocumentview.com/cxm.

Your vote is important. Whether or not you plan to attend the meeting, we urge you to vote your shares at your earliest convenience. This will help ensure the presence of a quorum at the meeting. Promptly voting your shares by telephone, by the Internet, or by signing, dating, and returning the enclosed proxy card will save us the expense and extra work of additional solicitation. Voting your shares by telephone or by the Internet will further help us reduce the costs of solicitation. A pre-addressed envelope for which no postage is required if mailed in the United States is enclosed if you wish to vote by mail. Voting your shares now will not prevent you from attending or voting your shares at the meeting if you desire to do so.

Only stockholders and persons holding proxies from stockholders may attend the meeting. If you plan to attend, please bring a photo ID. If your shares are held in the name of a broker, trust, bank or other nominee, you will need to bring a recent brokerage statement, proxy or letter from that broker, trust, bank or other nominee that confirms you are the beneficial owner of those shares to attend the meeting.

By Order of the Board of Directors

Christopher J. Reinhard

Chairman of the Board, Chief Executive Officer and President

12255 El Camino Real Suite 250

San Diego, California 92130

(858) 436-1000

April 30, 2013

CARDIUM THERAPEUTICS, INC.

12255 El Camino Real, Suite 250

San Diego, California 92130

PROXY STATEMENT

We are providing this proxy statement in connection with the solicitation of proxies by the Board of Directors of Cardium Therapeutics, Inc., a Delaware corporation (the Company, Cardium or we, our, or us), for use at our annual meeting of stockholders to be held on Thursday, June 2013, at 9:00 a.m. Pacific time, at the San Diego Marriott Del Mar, 11966 El Camino Real, San Diego, California 92130, and at any adjournment or postponement thereof (the Annual Meeting). We expect to mail this proxy statement and the enclosed proxy card on or about April 30, 2013 to all stockholders entitled to vote at the Annual Meeting.

VOTING INFORMATION

Who can vote?

You may vote if you were a stockholder of record as of the close of business on April 26, 2013. This date is known as the record date. You are entitled to one vote for each share of common stock you held on that date on each matter presented at the Annual Meeting. As of April 26, 2013, there were 129,562,061 shares of our common stock, par value $0.0001 per share, issued and outstanding.

How many votes are needed to hold the Annual Meeting?

To take any action at the Annual Meeting, a majority of our outstanding shares of common stock entitled to vote as of April 26, 2013, or 64,781,031 shares must be represented, in person or by proxy, at the Annual Meeting. This is called a quorum.

What is a proxy?

A proxy allows someone else to vote your shares on your behalf. Our Board of Directors is asking you to allow the people named on the proxy card (Christopher J. Reinhard and Tyler M. Dylan-Hyde) to vote your shares at the Annual Meeting.

How do I vote by proxy?

Whether you hold shares directly as a stockholder of record or beneficially in street name, you may vote without attending the Annual Meeting. You may vote by granting a proxy or, for shares held in street name, by submitting voting instructions to your broker or nominee. To vote by proxy, please follow the instructions on the enclosed proxy card. You may vote by telephone, by the Internet or by mail. Shares held in street name may be voted by telephone or by the Internet only if your broker or nominee makes those methods available. Your broker or nominee will enclose instructions for voting shares held in street name by telephone or by the Internet with this proxy statement if your broker or nominee has chosen to make those methods available.

If you vote by proxy, your shares will be voted at the Annual Meeting in the manner you indicate. If you vote by mail and return a signed proxy card with no specific instructions, your shares will be voted as the Board of Directors recommends.

Can I change my vote after I submit my proxy?

Yes. You can change or revoke your proxy at any time before it is voted by submitting another proxy with a later date (via the Internet, by telephone or by mail) or attending the meeting and voting in accordance with the

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instructions below. You also may send a written notice of revocation to Cardium Therapeutics, Inc., 12255 El Camino Real, Suite 250, San Diego, California 92130, Attention: Tyler M. Dylan-Hyde, Secretary.

Can I vote in person at the Annual Meeting instead of voting by proxy?

Yes. However, we encourage you to vote your shares at your earliest convenience to ensure that your shares are represented and voted. If you vote your shares by proxy and later decide you would like to attend the meeting and vote your shares in person, you will need to provide a written notice of revocation to the secretary of the meeting before your proxy is voted. If the holder of record of your shares is a broker, bank or other nominee and you wish to vote in person at the meeting, you must request a legal proxy from your broker, bank or other nominee that holds your shares and present that proxy and proof of identification at the Annual Meeting. If you would like to obtain directions to be able to attend the meeting and vote in person, please contact the Company at (858) 436-1000.

How are votes counted?

Except as noted, all proxies received will be counted in determining whether a quorum exists and whether we have obtained the necessary number of votes to approve each proposal. An abstention from voting will be used for the purpose of establishing a quorum, but for purposes of determining the outcome of any proposal as to which the proxy is marked ABSTAIN the shares represented by such proxy will not be treated as affirmative votes. A broker non-vote will also be used for the purpose of establishing a quorum, but will not otherwise be counted in the voting process. Thus, broker non-votes will not affect the outcome of any of the matters being voted on at the Annual Meeting. Generally, broker non-votes occur when shares held by a broker for a beneficial owner are not voted with respect to a particular proposal because (i) the broker has not received voting instructions from the beneficial owner and (ii) the broker lacks discretionary voting power to vote such shares.

How many votes are required to approve each proposal?

For Proposal 1, the election of the two Class I directors, a plurality of the votes is required. This means that the two candidates who receive the most votes will be elected to the two available Class I positions on the Board of Directors. Please note, that a bank, broker or nominee is not permitted to vote on behalf of beneficial owners with respect to uncontested elections of directors. If you wish your shares to be voted, you must instruct your bank, broker or nominee on how to vote your shares for the election of directors.

Proposal 2, the non-binding advisory resolutions approving the compensation of our named executive officers, will be approved by our stockholders if the votes cast FOR the proposal exceed the votes cast AGAINST the proposal. A properly executed proxy marked ABSTAIN with respect to this proposal will not be voted and accordingly will have no effect on the outcome of this proposal. Broker non-votes are not considered to be represented in person or by proxy as to this proposal and therefore will have no effect on the outcome of this proposal. The advisory resolution is non-binding but will be considered by our Board of Directors and the compensation committee in making decisions affecting executive compensation.

Proposal 3, the non-binding advisory resolution approving the frequency with which we will seek stockholder vote on the compensation of our named executive officers, is not a binary vote to either approve or disapprove of our Board of Directors recommendation, but rather a selection among four alternatives in which stockholders may indicate the frequency with which they prefer we seek a stockholder advisory vote on the compensation of our named executive officers. Stockholders may select 1 YEAR, 2 YEARS, 3 YEARS or ABSTAIN and the alternative that receives the greatest number of votes (other than ABSTAIN) will be considered the frequency recommended by our stockholders. Broker non-votes are not considered to be represented in person or by proxy as to this proposal and therefore will have no effect on the outcome of this

proposal. Even though this vote will be non-binding, our Board of Directors will take into account the outcome of this vote in making a determination on the frequency with which advisory votes on the compensation of our named executive officers will be included in our proxy statement.

Proposal 4 to approve the potential issuance of common stock upon conversion of the Series A Convertible Preferred Stock to be issued in connection with the April 2013 registered direct offering for additional gross proceeds of $1,656,000 in the event Proposals 4 and 5 are approved, will be approved by our stockholders if the votes cast FOR the proposal exceed the votes cast AGAINST the proposal. A properly executed proxy marked ABSTAIN with respect to this proposal will not be voted and accordingly will have no effect on the outcome of this proposal. Broker non-votes are not considered to be represented in person or by proxy as to this proposal and therefore will have no effect on the outcome of this proposal.

Proposal 5 to give our Board the authority, at its discretion, to effect a reverse split of our outstanding common stock requires the affirmative vote of the holders of a majority of our outstanding shares of common stock. Consequently, any shares not voted (whether by abstention or otherwise) will have the same effect as a vote AGAINST this proposal.

Proposal 6, to effect an increase in the number of authorized shares of common stock in the event that Proposal 5 with respect to the reverse stock split is NOT approved by stockholders requires the affirmative vote of the holders of a majority of the Company s outstanding shares of common stock. Any shares not voted (whether by abstention or otherwise) will have the same effect as a vote AGAINST the proposal.

The affirmative vote of a majority of the shares present in person or represented by proxy and entitled to vote at the Annual Meeting is required to ratify the selection of Marcum LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2013. See, however, Proposal 7 Effect of Ratification.

As of April 26, 2013, our executive officers and directors held of record or beneficially owned approximately 10,660,000 shares, or 8.0%, of our issued and outstanding common stock. Our executive officers and directors have indicated their intention to vote FOR the election of each of the nominees for the Class I directors, FOR Proposal 2, for 3 YEARS under Proposal 3, FOR Proposals 4 through 6, and FOR Proposal 7 ratifying the selection of Marcum LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2013.

Who pays for this proxy solicitation?

The Company will pay the cost of soliciting proxies for the Annual Meeting, including the costs of preparing, assembling and mailing the proxy materials. We will provide copies of proxy materials to fiduciaries, custodians and brokerage houses to forward to the beneficial owners of shares held in their name. We may reimburse such fiduciaries, custodians and brokers for their costs in forwarding the proxy materials.

In addition to the solicitation of proxies by mail, certain of our officers and other employees may also solicit proxies personally or by telephone, facsimile, e-mail or other means. No additional compensation will be paid to these individuals for any such services.

OUR BOARD OF DIRECTORS

Board Members

Our Board of Directors is responsible for the overall management of the Company. The Board of Directors is divided into three classes, designated Class I, Class II and Class III. The Board of Directors currently includes two Class I directors, three Class II directors, and two Class III directors. The name, age and business experience of each of our directors are shown below.

CLASS I

Edward W. Gabrielson, M.D. (Age 60)

Director

Dr. Gabrielson has served as a director and a member of the Nominating Committee of the Board of Directors since January 2006. He has more than 25 years of experience as a physician and faculty member at Johns Hopkins University. Currently, Dr. Gabrielson is a Professor of Pathology and Oncology at Johns Hopkins University School of Medicine, and Professor of Environmental Health Sciences at the Johns Hopkins University Bloomberg School of Public Health. He is also an attending physician at the Johns Hopkins Hospital and Bayview Medical Center. Dr. Gabrielson received a Bachelor of Science in Biology and Chemistry from the University of Illinois and an M.D. from Northwestern University Medical School.

Lon E. Otremba (Age 56)

Director

Mr. Otremba is currently the Principal Managing Director of Otremba Management Advisory, LLC, a management advisory firm, and has served as a director and a member of the Nominating Committee of the Board of Directors since January 2006. He previously served as the Chief Executive Officer of Tylted (July 2011-March 2013), which hosts one of the Mobile Web s largest communities of social, casual gamers. He was also Executive Chairman and a director of Professional Interactive Entertainment (July 2010-2013), a leading provider of Web-based services for video gamers worldwide. Previously he was Chairman and Chief Executive Officer (October 2006- December 2010) of Access 360 Media, a privately-held media company, where he remains a board director. Previously, Mr. Otremba was Chief Executive Officer (September 2003-August 2005) and a director (September 2003-July 2005) of Muzak, LLC; Executive Vice President (2001-2003) of Time Warner; and President and a director (1997-2000) of Mail.com (now Easy Link Services Corp.). He is also currently is a director of EEI Communications (since June 2006), a privately-held leading provider of outsourced new media, print publishing and staffing services. He is a past director of DotMenu, Inc. (2008-2012) an interactive commerce company, which was acquired by GrubHub; Power Medical Interventions (2006-2009), a privately held medical technology company which was acquired by Covidien in September 2009, and Artes Medical, Inc., (from 2006 to 2008) a publicly traded medical technology company which has since filed for bankruptcy.

CLASS II

Tyler M. Dylan-Hyde, Ph.D., J.D. (Age 51)

Director, Chief Business Officer, General Counsel, Executive Vice President and Secretary

Dr. Dylan-Hyde is co-founder of Cardium and has served as a director and as the Company s General Counsel, Executive Vice President and Secretary since its inception in December 2003, and as its Chief Business Officer since May 2005. Since August 2006, Dr. Dylan-Hyde has also served as a director and Chief Business Officer, General Counsel, Executive Vice President and Secretary of Tissue Repair Company, a wholly-owned subsidiary of Cardium. He served as a director and Chief Business Officer of Cardium s subsidiary, InnerCool Therapies, from its acquisition in March 2006 until its sale to Royal Philips Electronics in July 2009. Previously, he served as the Chief Business Officer, General Counsel, Executive Vice President and Secretary of Aries Ventures Inc. from October 20, 2005 through its merger with Cardium in January 2006. Dr. Dylan-Hyde has focused on the development of biologics and devices for cardiovascular and ischemic diseases for more than a decade. He served as General Counsel and Vice President of Collateral Therapeutics, Inc. until its 2002 acquisition by the Schering Group, Germany (now part of Bayer HealthCare). Dr. Dylan-Hyde played a major role in developing Collateral s intellectual property portfolio, in furthering its business development efforts and in advancing the company toward and through its acquisition by Schering, and continued as an executive officer and later consultant until 2005. Dr. Dylan-Hyde has advised both privately-held and publicly-traded companies that are developing, partnering or commercializing technology-based products. Before joining Collateral,

Dr. Dylan-Hyde was a partner of the law firm of Morrison & Foerster LLP. In his law firm practice, he focused on the development, acquisition and enforcement of intellectual property rights, as well as related business and transactional issues. He also has worked with both researchers and business management in the biotech and pharmaceutical industries. Dr. Dylan-Hyde received a B.Sc. in Molecular Biology from McGill University, Montreal, Canada, a Ph.D. in Biology from the University of California, San Diego, where he performed research at the Center for Molecular Genetics, and a J.D. from the University of California, Berkeley.

Andrew M. Leitch (Age 69)

Director

Mr. Leitch has served as a director and a member of the Audit Committee of the Board of Directors since August 2007, and was appointed Chairman of the Audit Committee and a member of the Compensation Committee in March 2011. Mr. Leitch is a financial industry veteran, having served 28 years in public accounting, including 20 years as a partner in Deloitte & Touche. He was deeply involved in international business, serving in various capacities throughout his career including Asian Regional Partner, Managing Partner of various offices in Asia, and Director of Mergers and Acquisitions for South East Asia. Mr. Leitch currently serves on the Board of Directors of two other publicly listed companies, Blackbaud, Inc. and STR Holdings, Inc. Mr. Leitch previously served as a director and the Chairman of the Audit Committee of Open Energy, Inc. (2006-2007), as a director and a member of the Audit Committee of Wireless Facilities, Inc. (2005-2006), and a director and member of the audit committee of Aldila Inc. (2004 2010), all publicly-traded companies. He is also a board member of certain private and portfolio companies within leading U.S. and International private equity groups. Mr. Leitch is a Certified Public Accountant.

Gerald J. Lewis (Age 79)

Director

Justice Lewis has served as a director, a member of the Audit Committee and the Chairman of the Compensation Committee of the Board of Directors since January 2006. He served on a number of courts in the California judicial system, and retired from the Court of Appeal in 1987. He has served as an arbitrator or mediator on a large number of cases and was Of Counsel to Latham & Watkins from 1987 to 1997. He has previously served as a director of several publicly-traded companies, including Henley Manufacturing, Wheelabrator Technologies, Fisher Scientific International, California Coastal Properties and General Chemical Group, and was Chairman of the Audit Committee of several of these companies. Justice Lewis was a director of Invesco Mutual Funds from 2000 until 2003, when Invesco became the AIM Mutual Funds, and thereafter served as a director of the AIM Mutual Funds from 2003 to 2006. Since August 2006, Justice Lewis has served as a director and a member of the Audit and Compensation Committees of the Tennenbaum Opportunities Fund.

CLASS III

Murray H. Hutchison (Age 74)

Director

Mr. Hutchison has served as a director, a member of the Audit and Compensation Committees and the Chairman of the Nominating Committee of the Board of Directors since January 2006. He served 27 years as Chief Executive Officer and Chairman of International Technology Corp., a large publicly-traded diversified environmental engineering and construction firm, until his retirement in 1997. Since his retirement, Mr. Hutchison has been self-employed with his business activities involving primarily the management of an investment portfolio and consulting with corporate management on strategic issues. Mr. Hutchison currently serves as the Chairman (since 2005) of Texas Eastern Product Pipelines, a publicly-traded pipeline and distribution company, and The Huntington Hotel Corporation (since 1996), a privately-held company, and as a director of Jack in the Box, Inc. (since 1998), a publicly-traded fast food restaurant chain, Cadiz, Inc. (since 1998), a publicly-traded company focused on land acquisition and water development activities, and The Olson Company (since 1996), a privately-held home builder, and has served on the Audit and Compensation

Committees of several publicly-traded companies. Previously, Mr. Hutchison served as Chairman and Chief Executive Officer (1999-2000) of Sunrise Medical, a publicly-traded medical equipment manufacturer, and as a member of the Board of Management of the University of California Berkeley Haas Graduate School of Business Administration. He also has served as a trustee or member of the board of managers of various foundations. Mr. Hutchison holds a B.S. in Economics and a B.B.A. in Foreign Trade.

Christopher J. Reinhard (Age 59)

Chairman of the Board, Chief Executive Officer, President and Treasurer

Mr. Reinhard is co-founder of Cardium and has served as a director and the Chief Executive Officer, President and Treasurer of Cardium since its inception in December 2003, and as the Chief Executive Officer and President of Tissue Repair Company, a wholly-owned subsidiary of Cardium, since August 2006. He served as a director and Chief Executive Officer and Treasurer of Cardium s subsidiary, InnerCool Therapies, from its acquisition in March 2006 until its sale to Royal Philips Electronics in July 2009. Previously, he served as a director and the Chief Executive Officer, President and Treasurer of Aries Ventures Inc. from October 20, 2005 through its merger with Cardium in January 2006. He also served as Chief Financial Officer of Aries Ventures Inc. from October 20, 2005 to November 16, 2005. For the past twelve years, Mr. Reinhard has focused on the commercial development of innovative therapeutics and medical devices. Before founding Cardium, he was a co-founder of Collateral Therapeutics, Inc., a former Nasdaq listed public company, and served as a director (from 1995) and President (from 1999) of Collateral Therapeutics until the completion of its acquisition by the Schering AG Group (now Bayer Schering Pharma) in 2002. He continued as Chief Executive of Collateral Therapeutics through December 2004. Mr. Reinhard played a major role in effecting Collateral Therapeutics initial public offering in 1998, and the sale of Collateral Therapeutics to Schering. From 2004-2008, Mr. Reinhard was Executive Chairman of Artes Medical, Inc., a publicly-traded medical technology company, which under Mr. Reinhard s tenure successfully developed and secured FDA approval for Artefill® , an aesthetic injectable treatment for long-lasting wrinkle correction, which subsequently has filed for bankruptcy. The Artefill product is currently being marketed sold in the U.S. by Suneva Medical. Previously, Mr. Reinhard was Vice President and Managing Director of the Henley Group, a publicly-traded diversified industrial and manufacturing group, and Vice President of various public and private companies created by the Henley Group through spin-out transactions, including Fisher Scientific Group, a leading international distributor of laboratory equipment and test apparatus for the scientific community, Instrumentation Laboratory and IMED Corporation, a medical device company. Mr. Reinhard received a B.S. in Finance and an M.B.A. from Babson College.

In addition to the information above regarding each director s business experience and service on the boards of directors of other companies, our Board of Directors considered the following experience, qualifications or skills of each of our directors in concluding that each director is qualified to serve as a director. The information below is not intended to be an exhaustive list of the qualifications that the Board of Directors considered with respect to our directors.

Dr. Gabrielson was selected to serve on our Board of Directors because of his medical and general industry experience gained as a practicing physician.

Mr. Otremba we selected to serve on our Board of Directors because of his experience as a management advisor and his media industry experience.

Dr. Dylan-Hyde is a co-founder and serves as an inside director of the Company. He has legal experience as well as scientific, industry and public company experience.

Mr. Leitch served as a licensed CPA for 28 years. He was recruited to join our Board of Directors, in particular, to serve the function of audit committee chairman and financial expert. Mr. Leitch has served as audit committee chair now for three other public companies at various times prior joining the Company.

Justice Lewis was asked to serve on our Board of Directors because of his extensive service on boards of directors of public companies. His experience as a director, and his prior experience as a judge and attorney, provides valuable insight and guidance on matters related to corporate governance.

Mr. Hutchinson was invited to serve as a member of our Board of Directors because of his strong background in managing business organizations and his experience serving as a director of publicly traded companies.

Mr. Reinhard is a co-founder and serves as an inside director and the Chairman of our Board of Directors. He has significant industry experience as well as public company experience.

Board Leadership

The Chairman of our Board of Directors also serves as our Chief Executive Officer. Our Board of Directors does not have a lead independent director. Our Board of Directors has determined that its leadership structure is appropriate and effective. Our Board of Directors believes that having a single individual serve as both chairman and chief executive officer provides clear leadership, accountability and promotes strategic development and execution. Our Board of Directors also believes that there is a high degree of transparency among directors and company management. Five of the seven members of our Board of Directors are independent directors and all of those individuals serve on the committees of our Board of Directors. Our Chairman and Chief Executive Officer does not serve on any committee, which our Board of Directors believes promotes appropriate independent leadership.

Independence

Our common stock is currently listed on the NYSE MKT. The rules of that stock exchange require listed companies to have a majority of the members of board of directors qualify as independent directors. Our Board of Directors, following the review and determination of the Nominating Committee, has determined that five of our seven directors are independent based on the definition of independence set forth in the NYSE MKT Company Guide. The members determined to be independent are Messrs. Gabrielson, Hutchison, Leitch, Lewis, and Otremba. In addition, Messrs. Hutchison, Leitch, and Lewis also have been determined by our Board of Directors to meet the independence standards for members of an audit committee set forth in the rules promulgated under the Securities Exchange Act of 1934.

Board Role in Risk Oversight

Our Board of Directors has an oversight role in managing our risk. Our Audit Committee receives reports from senior management on areas of material risk, including operational, financial, legal and strategic risks which enable the Audit Committee to understand management s views on risk identification, risk management and risk mitigation strategies. The Audit Committee, or if appropriate, the full Board of Directors or another committee, will periodically request that management evaluate additional potential risks, provide additional information on identified risks, or implement risk remediation procedures.

Board Meetings

Our Board of Directors held five meetings during the fiscal year ended December 31, 2012 and took action by written consent on one occasion. Each of the seven current directors serving in 2012 attended at least 75% of the total number of meetings of the Board of Directors and applicable committees that each director was eligible to attend.

Board Committees

Our Board of Directors has established an Audit Committee, a Compensation Committee and a Nominating Committee. The committees are comprised entirely of independent directors as defined under the rules of the

NYSE MKT stock exchange. In addition, members of the Audit Committee also must meet the independence standards for audit committee members contained in the Securities Exchange Act of 1934, as amended. The members of each of the committees of our Board of Directors are as follows:

Audit Committee	**Compensation Committee**	**Nominating Committee**
Murray H. Hutchison*	Murray H. Hutchison	Edward W. Gabrielson
Andrew M. Leitch (Chairman)*	Gerald J. Lewis (Chairman)	Murray H. Hutchison (Chairman)
Gerald J. Lewis	Andrew M. Leitch	Lon E. Otremba

* The Board of Directors has determined that Messrs. Hutchison and Leitch are each an audit committee financial expert as defined by applicable rules adopted by the SEC.

During the year ended December 31, 2012, the Audit Committee held four meetings, the Compensation Committee held two meetings, and the Nominating Committee held one meeting.

Audit Committee. The Audit Committee operates under a charter originally adopted by the committee in January 2006 and amended in March 2008. A copy of the Audit Committee s charter is available in the corporate governance section of our website at www.cardiumthx.com. The general function of the Audit Committee is to oversee the accounting and financial reporting processes of the Company and the audits of its financial statements. The Audit Committee assists the Board of Directors in fulfilling its oversight responsibilities relating to the accounting, reporting and financial practices of the Company, including the integrity of its financial statements and disclosures; the surveillance of administration and financial controls and the Company s compliance with legal and regulatory requirements; the qualification, independence and performance of the Company s independent registered public accounting firm; and the performance of the Company s internal audit function and control procedures. The Audit Committee has the sole authority to appoint, determine funding for, and oversee the Company s independent registered public accounting firm.

Compensation Committee. The Compensation Committee operates under a charter adopted by the committee in January 2006 and amended in March 2008. A copy of the Compensation Committee s charter is available in the corporate governance section of our website at www.cardiumthx.com. The primary purpose of the Compensation Committee is to oversee the Company s compensation and incentive programs for its executive officers and certain other key personnel. Among other things, the Compensation Committee recommends to the Board of Directors the amount of compensation to be paid or awarded to our executive officers and certain other personnel including salary, bonuses, other cash or stock awards under our incentive compensation plans as in effect from time to time, retirement and other compensation. In addition, the Board of Directors has delegated to the Compensation Committee the authority to administer the Company s 2005 Equity Incentive Plan, including the authority to consider and act upon recommendations from management to grant awards under the plan to employees and consultants of the Company and its subsidiaries, not including officers and directors of the Company. The Compensation Committee may delegate its authority to subcommittees of the committee or to committees comprised of Company employees when legally permissible and when the Compensation Committee deems it appropriate or desirable to facilitate the operation or administration of the plans and programs that the committee oversees. The Compensation Committee also may engage the services of an independent compensation and benefits consulting company to conduct a survey and review of the Company s compensation programs as compared to other similarly situated companies taking into account, among others, industry, size and location when the Compensation Committee deems appropriate. It is anticipated that the Compensation Committee will engage such independent consultants from time to time to aid the committee in its evaluation of the Company s compensation programs for its executive officers.

Nominating Committee. The Nominating Committee operates under a charter adopted by the committee in January 2006 and amended in March 2008. A copy of the Nominating Committee s charter is available in the corporate governance section of our website at www.cardiumthx.com. The purpose of the Nominating Committee is to assist the Board of Directors in identifying qualified individuals to become members of the

Board of Directors and in determining the composition of the Board of Directors and its various committees. The Nominating Committee periodically reviews the qualifications and independence of directors, selects candidates as nominees for election as directors, recommends directors to serve on the various committees of the Board of Directors, reviews director compensation and benefits, and oversees the self-assessment process of each of the committees of the Board of Directors.

The Nominating Committee considers nominee recommendations from a variety of sources, including nominees recommended by stockholders. Persons recommended by stockholders are evaluated on the same basis as persons suggested by others. Stockholder recommendations may be made in accordance with our Stockholder Communications Policy. See Stockholder Communications with Directors below. The Nominating Committee has the authority to retain a search firm to assist in the process of identifying and evaluating candidates.

The Nominating Committee has not established any specific minimum requirements for potential members of our Board of Directors. Instead, the Nominating Committee s evaluation process includes many factors and considerations including, but not limited to, a determination of whether a candidate meets the requirements of the NYSE MKT and the Securities Exchange Act of 1934, as amended, relating to independence and/or financial expertise, as applicable, and whether the candidate meets the Company s desired qualifications in the context of the current make-up of the Board of Directors with respect to factors such as business experience, education, intelligence, leadership capabilities, integrity, competence, dedication, diversity, skills, and the overall ability to contribute in a meaningful way to the deliberations of the Board of Directors respecting the Company s business strategies, financial and operational performance and corporate governance practices. Our Board of Directors does not have a specific policy with regard to the consideration of diversity in the identification of director nominees. The Nominating Committee will generally select those nominees whose attributes it believes would be most beneficial to the Company in light of all the circumstances.

Code of Ethics

We have adopted a Code of Ethics that applies to all of our employees and directors, including all of our officers and non-employee directors and all employees, officers and directors of our subsidiaries. The Audit Committee periodically reviews the Code of Ethics and the Company s compliance with its Code of Ethics. Our Code of Ethics has been posted in the corporate governance section of our website at www.cardiumthx.com. Any amendments to our Code of Ethics or any waivers from our Code of Ethics also will be posted on our website. Our Code of Ethics is not incorporated in, and is not a part of, this proxy statement and is not proxy-soliciting material.

Stockholder Communications with Directors

Our Board of Directors has adopted a Stockholder Communications Policy to provide a process by which our stockholders may communicate with our Board of Directors. Under the policy, stockholders may communicate with our Board of Directors as a whole, with the independent directors, with all members of a committee of our Board of Directors, or with a particular director. Stockholders wishing to communicate directly with our Board of Directors may do so by mail addressed to the Company at 12255 El Camino Real, Suite 250, San Diego, California, 92130, Attn: Corporate Secretary. The envelope should contain a clear notation indicating that the enclosed letter is a Stockholder-Board Communication or Stockholder-Director Communication. All such letters must identify the author as a stockholder of the Company and clearly state whether the intended recipients are all members of the Board of Directors, all independent directors, all members of a committee of the Board of Directors, or certain specified individual directors.

Attendance at Annual Meetings

In recognition that it may not be possible or practicable, in light of other business commitments of the Company s directors, to attend the Company s annual meetings of stockholders, the members of the Board of Directors are invited, but not required, to attend each of the Company s annual meeting of stockholders. At the Company s last annual meeting of stockholders held on May 31, 2012, two members of the Board of Directors were present.

PROPOSAL 1

ELECTION OF CLASS I DIRECTORS

Members of each class of our Board of Directors are elected to serve for a three-year term. The three-year terms of the members of each class are staggered, so that each year the members of a different class are due to be elected at the annual meeting. The Class I directors currently are serving a term that is due to expire at the Annual Meeting. The Class II directors currently are serving a term that is due to expire at our 2014 annual meeting, and the Class III directors are serving a term that is due to expire at the 2015 annual meeting.

Nominees

At the Annual Meeting two Class I directors are to be elected, each to serve until the next annual meeting of stockholders held to elect Class I directors and until their respective successor is elected and qualified or until their respective death, resignation or removal. The Board of Directors proposes the election of the nominees named below, who are each currently are Class I members of our Board of Directors.

Vote Required and Board Recommendation

For Proposal 1, the election of the two Class I directors, a plurality of the votes is required. This means that the two candidates who receive the most votes will be elected to the two available Class I positions on the Board of Directors.

Unless authorization to do so is withheld, proxies received will be voted FOR the nominees named below. If any nominee should become unavailable for election before the Annual Meeting, the proxies will be voted for the election of such substitute nominee as the present Board of Directors may propose. The persons nominated for election have agreed to serve if elected, and the Board of Directors has no reason to believe that the nominees will be unable to serve.

Our Board of Directors proposes the election of the following nominees as Class I members of the Board of Directors:

Edward W. Gabrielson, M.D. and Lon E. Otremba

Our Board of Directors unanimously recommends that you vote FOR the election of each of the nominees as a Class I director of the Company.

PROPOSAL 2

ADVISORY VOTE ON COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS

Pursuant to Section 14A of the Securities Act of 1934, as amended, and as a matter of good corporate governance, we are asking our stockholders to approve, on a non-binding basis, the following resolution approving the compensation of our named executive officers as disclosed pursuant to the compensation disclosure rules of the SEC (commonly referred to as the say-on-pay vote):

RESOLVED, that the compensation paid to the Company s named executive officers as disclosed pursuant to the compensation disclosure rules of the SEC, including disclosure under Compensation Discussion and Analysis , the accompanying compensation tables, and the related narrative disclosure contained in this proxy statement, is hereby APPROVED.

Our executive compensation program is designed to attract, retain and motivate talented executives capable of providing the leadership, vision and execution necessary to achieve our business objectives and create long-term stockholder value and to ensure that total compensation is fair, reasonable and competitive. Our compensation programs, with a balance of short-term incentives (including performance-based cash bonus awards), long-term incentives (including stock options and restricted stock awards that generally vest over four years), reward sustained performance that is aligned with long-term stockholder interests. Stockholders are encouraged read the discussion under Executive Compensation of this proxy statement and the related tables and narrative disclosure contained therein for a full description of our compensation programs for our named executive officers.

This vote is advisory only and nonbinding. The Board and the Compensation Committee, which is comprised solely of independent directors, will consider the outcome of this vote when making future executive compensation decisions to the extent appropriate.

Vote Required and Board Recommendation

The non-binding advisory resolutions will be approved by our stockholders if the votes cast FOR the proposal exceeds the votes cast AGAINST the proposal.

Our Board of Directors unanimously recommends that you vote FOR approval of the advisory resolution approving the compensation of our named executive officers.

PROPOSAL 3

ADVISORY VOTE ON THE FREQUENCY OF FUTURE STOCKHOLDER ADVISORY VOTES ON THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS

Section 14A of the Securities Act of 1934, as amended, provides that stockholders have the opportunity to vote, on a non-binding, advisory basis, for their preference as to how frequently a company should seek advisory votes on the compensation of its named executive officers, such as Proposal 2 above. Stockholders may indicate whether they would prefer that we conduct advisory votes on executive compensation once every one year, every two years or every three years. Stockholders also may, if they desire, abstain from casting a vote on this proposal. Our Board of Directors recommends that stockholders vote to advise that we hold an advisory vote on executive compensation every three years, or a triennial voting frequency.

We believe that a triennial voting frequency will provide our stockholders with sufficient time to evaluate the effectiveness of our overall compensation philosophy, policies, and practices in the context of our long-term business results for the corresponding period. Requiring a vote on a more frequent basis could encourage a short-term view of compensation and business results. We also believe that a three-year timeframe provides a better opportunity to observe and evaluate the impact of any changes to our executive compensation policies and practices that have occurred since the last advisory vote.

Vote Required and Board Recommendation

Stockholders may indicate the frequency with which they prefer we seek a stockholder advisory vote on the compensation of our named executive officers by selecting 1 YEAR, 2 YEARS, 3 YEARS or ABSTAIN. The frequency that receives the greatest number of votes (other than ABSTAIN) will be designated the stockholders preference as to the frequency of a stockholder advisory vote concerning the compensation of our named executive officers. Because this vote is advisory, it will not be binding upon our Board of Directors. However, our Board of Directors will consider the outcome of this stockholder vote in determining a voting frequency.

Our Board of Directors unanimously recommends that a stockholder advisory vote on the compensation of our named executive officers be held every 3 YEARS.

PROPOSAL 4

TO APPROVE THE SALE OF SERIES A CONVERTIBLE PREFERRED STOCK IN CONNECTION WITH THE APRIL 2013 REGISTERED DIRECT OFFERING, FOR THE RECEIPT OF ADDITIONAL GROSS PROCEEDS OF $1,656,000

Overview of Proposal

Our common stock is listed for trading on the NYSE MKT and, as a result, we must comply with the rules and regulations of that exchange as a condition of our continued listing. Section 712 of the NYSE Company Guide requires that a listed company, like Cardium Therapeutics, Inc., obtain stockholder approval in connection with a transaction, other than a public offering, involving (i) the sale, issuance, or potential issuance of common stock, or securities convertible into common stock equal to 20% or more of the listed company s outstanding stock before the transaction, (ii) at a price per share that is less than the greater of book value or fair market value at the time of the transaction.

We are seeking approval of this Proposal 4 and accompanying Proposal 5 to complete a second closing under April 2013 registered direct offering, and sell an additional 1,656 shares of Series A Convertible Preferred Stock in exchange for gross proceeds of $1,656,000. The approval of accompanying Proposal 5 would also apply to the Preferred Stockholders. Accordingly, if Proposal 4 and 5 are approved, not only would the Company be enabled to receive the additional $1,656,000 in proceeds from the April 2013 financing, but the number of shares of common stock issuable to holders of Preferred Stock acquired in connection with the April 2013 registered direct offering would be subject to a downward share number adjustment as a result of the reverse stock split, and the conversion price under which Preferred Stock was convertible into common stock would be subject to an upward conversion price adjustment. In particular, the non-voting Preferred Stock, each share of which was purchased for $1,000.00, is currently convertible into 10,989 shares of voting common stock, at a conversion price of $0.091 per share, subject to adjustment as previously reported in connection with the April 2013 offering. If Proposals 4 and 5 and both approved, and the corresponding reverse stock split is effected in order to satisfy the second closing with gross proceeds to the Company of $1,656,000, each share of Preferred Stock acquired in connection with the April 2013 offering including both the original Preferred Stock acquired on April 9, 2013 and newly-acquired shares would only be convertible into 1/20th of those shares of common stock, or approximately 549 shares of common stock per $1,000 face value share of Preferred Stock, with the conversion price being 20-times higher at $1.82 per share, subject to adjustment.

The April 2013 registered direct offering

On April 4, 2013, we entered into a securities purchase agreement with an institutional investor pursuant to which we agreed to sell the investor 4,012 shares of Series A Convertible Preferred Stock, for gross proceeds of approximately $4.0 million, generally to be used for general corporate and working capital purposes. The securities were registered under our shelf registration statement on Form S-3.

The securities purchase agreement provided for the sale of Series A Convertible Preferred Stock in two closings. The first closing under the securities purchase agreement took place on April 9, 2013. At that closing we sold, and the investor purchased, 2,356 shares of Series A Convertible Preferred Stock for an aggregate purchase price, and receipt of gross proceeds, of $2,356,000.

The number of shares of common stock issuable upon conversion of the remaining 1,656 shares of Series A Convertible Preferred Stock would have exceeded 20% of our outstanding common stock at the time of the initial closing. In connection with the April 2013 Registered direct offering we entered into a Placement Agent Agreement dated April 4, 2013 with Ladenburg Thalmann, Inc. providing for payment of cash in the amount of 6.5% of the gross proceed from the offering as well as a warrant to purchase 881,758 shares of our common stock. The warrants expire August 27, 2015 and are exercisable at a price of $0.11375 subject to adjustment. Under Section 712 of NYSE MKT Company Guide, stockholder approval is required for any portion of the transaction which could require us to issue a number of shares of common stock equal to 20% of our outstanding common stock at a price less than the closing price on the day prior the date of the securities purchase agreement.

In addition, we do not currently have a sufficient number of shares of common stock authorized to reserve shares for conversion of the remaining 1,656 shares of Series A Convertible Preferred Stock. We currently have 200,000,000 shares of common stock authorized; and we have 129,562,061 shares of common stock outstanding and an additional 30,941,424 shares reserved for issuance under outstanding common stock equivalents, and another 25,890,110 shares reserved for issuance of common stock upon potential conversion of the 2,356 shares of Preferred Stock sold in the initial closing. Moreover, as discussed below in connection with Proposal 5, the price of our common stock on our listed exchange has recently been below the level that our listing exchange normally considers acceptable for exchange listed companies. Since a reverse stock split would not only tend to increase the price of our common stock immediately following the split, but would also effectively free up additional shares of authorized but unissued shares of common stock needed for potential conversion of the additional 1,656 shares of Series A Convertible Preferred Stock, the Company agreed with the purchaser of Preferred Stock under the April 2013 registered direct offering to seek stockholder approval of not only this Proposal 4, but also Proposal 5, pursuant to which the Board would be authorized to effect a reverse split of up to 20:1 in order to satisfy the terms of the securities purchase agreement and thereby obtain an additional $1,656,000 in gross proceeds from the offering.

Accordingly, the securities purchase agreement provided for the sale of the 4,012 shares of Series A Convertible Preferred Stock in two closings. At the initial closing, which took place on April 9, 2013 we sold 2,356 shares of Series A Convertible Preferred Stock to the investor in exchange for gross proceeds of $2,356,000. The second closing for the sale of the remaining 1,656 shares of Series A Preferred Stock, and our receipt of the gross proceeds of $1,656,000 is conditioned on us obtaining shareholder approval under this Proposal 4 as well as the reverse split discussed in Proposal 5 below.

Under the securities purchase agreement, we agreed to grant the investor certain other rights as well. We agreed to provide the investor with a right of participation in future financings for a period of 12 months following the second closing. That right allows the investor to purchase up to 50% of any offering, if any, in which we offer to issue common stock or common stock equivalents at less than the then current conversion price for the Series A Convertible Preferred Stock. In addition, we agreed not to engage in any sales of common stock or common stock equivalents for a period 60 days following the second closing or, if the second closing did not occur, for a period of 60 days following the 85th day after the first closing, which was on April 9, 2013. Finally, we agreed that except for a proposed 20:1 reverse stock split, for a period of one year following the initial closing we would not effect a change in our capital structure, including a forward split or reverse split of our common stock without the consent of the holders of the Series A Convertible Preferred Stock. These rights were granted in connection with the initial closing and stockholder approval will not impact these rights.

Terms of the Series A Convertible Preferred Stock

The following discussion summarized the key terms of the Series A Convertible Preferred Stock. For the complete terms of the shares of our Series A Convertible Preferred Stock, you should refer to the form of its Certificate of Designation filed as an exhibit to our Current Report on Form 8-K filed with the SEC on April 5, 2013.

Dividends

Each holder of a share of our Series A Convertible Preferred Stock will be entitled to receive dividends equal, on an as-if-converted to shares of our common stock basis, to and in the same form as dividends actually paid on shares of our common stock when, as, and if such dividends are paid on shares of our common stock. We have never paid dividends on shares of our common stock and we do not intend to do so for the foreseeable future.

Voting Rights

Except as required by law, holders of the shares of our Series A Convertible Preferred Stock will not have rights to vote on any matters, questions or proceedings, including the election of directors. However, as long as

any shares of our Series A Convertible Preferred Stock are outstanding, we cannot, without the affirmative vote of the holders of a majority of the then outstanding shares of our Series A Convertible Preferred Stock, (1) alter or change adversely the powers, preferences or rights given to the shares of our Series A Convertible Preferred Stock or alter or amend its certificate of designation, (2) authorize or create any class of shares ranking as to dividends, redemption or distribution of assets upon liquidation senior to, or otherwise pari passu with, the shares of our Series A Convertible Preferred Stock, (3) amend our Certificate of Incorporation or other charter documents in any manner that adversely affects any rights of the holders of our Series A Convertible Preferred Stock, (4) increase the number of authorized shares of our Series A Convertible Preferred Stock, or (5) enter into any agreement with respect to any of the foregoing.

Liquidation

Upon any liquidation, dissolution or winding up of our Company, after payment or provision for payment of our debts and other liabilities and before any distribution or payment is made to the holders of our common stock or any junior securities, the holders of our Series A Convertible Preferred Stock will first be entitled to be paid an amount equal to $1,000 per share plus any other fees, liquidated damages or dividends then owing, before our remaining assets will be distributed among the holders of the other classes or series of shares of our capital stock in accordance with our Certificate of Incorporation.

Conversion

Subject to certain ownership limitations as described below, the shares of our Series A Convertible Preferred Stock are convertible at any time at the option of the holder into shares of our common stock at a conversion ratio determined by dividing the stated value of the shares of our Series A Convertible Preferred Stock (or $1,000) by a conversion price of $0.091 per share. Accordingly, each share of our Series A Convertible Preferred Stock is initially convertible into 10,989.01 shares of our common stock.

The conversion price is subject to adjustment in the case of share splits, share dividends, combinations of shares and similar recapitalization transaction. In addition, upon the first reverse stock split of the common stock that is effected by the Company while Series A Convertible Preferred Stock is outstanding the Conversion Price shall be reduced, and only reduced to an amount equal to 80% of the average of the volume weighted average price (VWAP) for our common stock for the 10 Trading Days immediately following the Reverse Stock Split Date, but not less than $0.05 per shares. In the event that we fail to effect a reverse stock split within 75 calendar days following the date of the initial sales of Series A Convertible Preferred Stock (the Trigger Date) then the Conversion Price shall be reduced, and only reduced, to 80% of the average of the VWAPs for the 10 Trading Days immediately following the Trigger Date, again subject to a floor of $0.05 per share. The Conversion Price is also subject to full ratchet anti-dilution price protection, in the event that we issue any common stock or common stock equivalents at a price less than the then effective conversion price. The anti-dilution protection terminates if during a 30 consecutive trading day period (i) the VWAP for our common stock each of any 25 trading days during such period exceeds $0.60 (subject to adjustment for forward and reverse stock splits and the like) and (ii) the daily dollar trading volume for each trading day during such period exceeds $2,000,000; provided, however, that in the event that the Company is not able to stockholder approval of this offering and a reverse split, upon any such dilutive issuance, the Conversion Price shall be reduced to equal 80% of the then current Conversion Price.

Forced Conversion

We have the right to force conversion of the Series A Preferred Stock into common stock; provided that (1) we have obtained shareholder approval of the offering and the reverse stock split, (2) during a period of 30 consecutive trading days the VWAP for each of any 25 trading days during period exceeds $0.60 (subject to adjustment for forward and reverse stock splits and the like) and the dollar trading volume for each trading day during such period exceeds $2,000,000 per Trading Day, and (3) we meet certain other Equity Conditions

described in the Certificate of Designations, including meeting covenants under the securities purchase agreement, having an effective registration statement or exemption for the resale of the shares, and maintaining the listing of our common stock on a national exchange. Any forced conversion is subject to the limitations on conversion discussed below.

Limitations on Conversion

A holder of our Series A Convertible Preferred Stock will not have the right to convert, and we will not have the right to force such holder to convert, any portion of its shares of our Series A Convertible Preferred Stock if the holder, together with its affiliates, would beneficially own in excess of 9.99% of the number shares of our common stock outstanding immediately after giving effect to its conversion.

Issuance Limitations.

Unless and until the Company has obtained stockholder approval for the offering of the Series A Convertible Preferred Stock and a reverse stock split, then the Company shall not issue, upon conversion of the Series A Convertible Preferred Stock, a number of shares of common stock which, when aggregated with any shares of common stock issued on or after the original issue date of the Series A Convertible Preferred Stock and prior to such conversion date (i) in connection with any conversion of Series A Convertible Preferred Stock issued pursuant to the Purchase Agreement and (ii) in connection with the exercise of any warrants issued to any registered broker-dealer as a fee in connection with the issuance of the securities in the April 2013 registered direct offering, would exceed 25,899,624 shares of common stock (subject to adjustment for forward and reverse stock splits, recapitalizations and the like).

Negative Covenants

As long as any shares of Series A Convertible Preferred Stock are outstanding, unless the holders of more than two-thirds of the outstanding Series A Convertible Preferred Stock approve, the Company shall not, and shall not permit any of the subsidiaries to, directly or indirectly (1) incur any indebtedness other than Permitted Indebtedness (as defined in the Certificate of Designations, (2) incur any liens other than Permitted Liens (as defined in the Certificate of Designations, (3) amend the Company s certificate of incorporation in a manner that adversely affects the rights of any holder of Series A Convertible Preferred Stock, (4) repurchase or redeem shares of our outstanding common stock or common stock equivalents, (5) pay any dividends on our common stock, or (6) enter into any related party transactions, except for arm s-length transactions that are expressly approved by a majority of the disinterested directors of the Board of Directors.

Expected Consequences if Stockholder Approval is Obtained

Assuming Proposals 4 and 5 are approved, the second closing under the securities purchase agreement could take place promptly following stockholder approvals, pursuant to which the Company will issue the remaining 1,656 shares of Preferred Stock as provided under the securities purchase agreement, and will receive additional gross proceeds of $1,656,000. The stockholder approval will not impact the issuance of the shares of Series A Convertible Preferred Stock sold at the initial closing.

In addition, if both Proposals 4 and 5 are approved, the number of shares of common stock issuable to holders of Preferred Stock acquired in connection with the April 2013 registered direct offering including both the Preferred Stock acquired on April 9, 2013 and newly-acquired Preferred Stock would be subject to a downward share number adjustment for Preferred Stock as a result of the reverse stock split (decreasing from 10,989 shares of common per share of Preferred Stock converted, to 549 shares of common per share of Preferred Stock converted). The conversion price under which Preferred Stock was convertible into common stock would be subject to an upward conversion price adjustment (increasing from $0.091 per share of common to $1.82 per share of common), subject to adjustment as noted above.

The Series A Convertible Preferred Stock would not be listed for sale on any securities exchange or automated quotation system, but Series A Convertible Preferred Stock is convertible into common stock of the Company at the holder s election, subject to a beneficial ownership limitation which restricts conversion to the extent that the holder together with its affiliates, would own more than 9.99% of our outstanding common stock.

The common stock underlying the Series A Convertible Preferred Stock would be expected to be listed on the Company s exchange and could be sold by the holder. The issuance and sale of the underlying common stock would have a dilutive effect on our existing stockholder s percentage voting power and economic interest and, consequently, could lead to a decrease in the market price of our common stock. In addition, since the conversion or exercise prices may be below the market price of our common stock, even if conversions or exercises do not take place, the existence of such rights could lead to a decrease in the market price of our common stock.

Expected Consequences if Stockholder Approval is Not Obtained

If either of Proposals 4 or 5 is not approved, we will encounter a number of potentially significant consequences:

Loss of $1,656,000 in sale proceeds. We will not be able to complete the sale of the remaining 1,656 shares of Series A Convertible Preferred Stock under the April 2013 registered direct offering, and will not receive the additional $1,656,000 in gross proceeds from that sale.

Need for additional financing. We will require additional capital to fund our operations. If we do not obtain the additional $1,656,000 from the second closing, we will have less time to the commercialization of our products and less opportunity to secure additional capital to finance our ongoing operations. We do not have arrangements for such additional capital in place at this time, and cannot provide any assurances regarding our ability to secure the additional financing required of the terms on which any future financing may be offered.

Possible liquidation. If we are unsuccessful in raising additional capital, we may be forced to substantially curtail or to terminate our operations. In any liquidation of the Company, the holders of the Series A Preferred Stock acquired in the April 2013 registered direct offering would be entitled to receive at least the first proceeds of any liquidation based on liquidation preferences, up to the full stated value of the Preferred Stock, which is currently $2,356,000.

Possible de-listing from NYSE MKT. Our trading exchange, the NYSE MKT, could initiate delisting proceedings because its extension of our compliance plan from March 31, 2013 to June 30, 2013 was based in essential part on our completing the first and second closings contemplated by the April 4, 2013 securities purchase agreement, and the receipt of the additional $1,656,000 in gross proceeds expected to be received from the second closing following stockholder approval. While our common stock could alternatively be listed and quoted for trading on the OTC market, an alternative regulated quotation service that provides quotes, sale prices and volume information in over-the-counter equity securities, and the company traded on the OTC prior listing on the predecessor of the NYSE MKT, failure to obtain the additional $1,656,000 in gross proceeds expected to be received from the second closing would also affect the Company s liquidity.

Additional stockholder solicitations. Under the term of the securities purchase agreement, if Proposal 4 and Proposal 5 are not approved at the upcoming Annual Meeting of Stockholders, we will be obligated to re-solicit stockholder approval a second time, and incur additional costs in the solicitation, and to continue seeking stockholder approval each 45 days thereafter.

Additional Stockholder Solicitations: Company Will be Obligated to Call Special Meetings of Stockholders Every 45 Days If This Proposal 4 and Proposal 5 are Not Approved

Under the securities purchase agreement entered into in connection with the April 2013 financing, pursuant to which the Company is obligated to take all steps under its control to seek and obtain stockholder approval for

this Proposal 4 and Proposal 5 in order to effect sale of the remaining portion of Preferred Stock to be acquired pursuant to the April 2013 registered direct offering and to receive the corresponding gross proceeds of $1,656,000 the Company is obligated to continue to submit this matter for approval of the stockholders at this Annual Meeting.

If either Proposal 4 or Proposal 5 is NOT approved at this Annual Meeting, the Company will thereafter be obligated to again undertake all steps under its control to seek and obtain stockholder approval for proposals essentially identical to this Proposal 4 and Proposal 5, by calling a Special Meeting of Stockholders every 45 days thereafter, and to continue doing so until the earlier of the approval of these proposals or such time as the Preferred Stock acquired in the April 2013 financing is no longer outstanding. Since the Company cannot necessarily force the conversion of the Preferred Stock into Common Stock, if Proposal 4 or Proposal 5 are not approved, the Company could effectively be forced to undergo the expense, effort and delays required to continue to conduct Special Meetings of Stockholders every 45 days unless and until they are approved.

In order to avoid this circumstance and other potential consequences if stockholder approval is not obtained as described below and also in order to be able to receive additional gross proceeds of approximately $1,656,000 if stockholder approval is obtained the Board of Directors considers the approval of Proposal 4 and Proposal 5 to be in the best interests of the Company and its stockholders.

Vote Required and Board Recommendation

The approval of this Proposal 4 requires the affirmative vote of a majority of the shares present, either by proxy or in person, and entitled to vote at the meeting.

After careful consideration of all relevant factors, our Board of Directors determined that this Proposal to approve the sale of Series A Convertible Preferred Stock in connection with the April 2013 registered direct offering is in the best interests of the Company and its stockholders.

Our Board of Directors unanimously recommends that you vote FOR Proposal 4.

PROPOSAL 5

APPROVAL OF A REVERSE SPLIT TO EFFECT A REVERSE STOCK SPLIT IN A SPECIFIC RATIO RANGING FROM TWO-FOR-ONE (2:1) TO TWENTY-FOR-ONE (20:1), TO BE DETERMINED BY THE BOARD OF DIRECTORS AND EFFECTED, IF AT ALL, WITHIN ONE YEAR FROM THE DATE OF THE ANNUAL MEETING

The Board of Directors considers it to be in the best interests of the Company and its stockholders for the Board to have the flexibility to effect a reverse stock split, should that be determined to be necessary for the raising of additional funds pursuant to the April 2013 financing, maintenance of the Company s listing on its current stock exchange, the NYSE MKT, or otherwise beneficial for the Company under prevailing market, investor and other considerations, as discussed in further detail below.

In connection with the proposed sale of the remaining 1,656 shares of Preferred Stock as provided under the securities purchase agreement in connection with the April 2013 registered direct offering, pursuant to which the Company would be entitled to receive additional gross proceeds of $1,656,000, which is the subject of Proposal 4, the investor, which is an institutional healthcare fund managed by Sabby Management LLC, the Company s largest stockholder, made it a condition of their additional investment that the Company seek and obtain stockholder approval for a reverse stock split of 20:1.

If Proposal 4 and Proposal 5 are approved by stockholders, the Company would seek to complete the second closing of the April 2013 registered direct offering in order to receive the additional gross proceeds of $1,656,000 as agreed, and as considered important by both the Company and its listing exchange to support ongoing operations. The approval of this Proposal 5 would also apply to the Preferred Stockholders. Accordingly, if Proposal 4 and 5 are approved, not only would the Company be enabled to receive the additional $1,656,000 in proceeds from the April 2013 financing, but the number of shares of common stock issuable to holders of Preferred Stock acquired in connection with the April 2013 registered direct offering would be subject to a downward share number adjustment as a result of the reverse stock split, and the conversion price under which Preferred Stock was convertible into common stock would be subject to an upward conversion price adjustment. In particular, the non-voting Preferred Stock, each share of which was purchased for $1,000.00, is currently