

Alphatec Holdings, Inc.
Form S-3
April 25, 2017
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As filed with the Securities and Exchange Commission on April 25, 2017

Registration No. 333-

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

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Alphatec Holdings, Inc.
(Exact Name of Registrant as Specified in Its Charter)

Delaware

5818 El Camino Real

20-2463898

Carlsbad, CA 92008

(State or other jurisdiction of incorporation or organization)	(760) 431-9286 (Address of Principal Executive Offices including Zip Code)	(I.R.S. Employer Identification No.)
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Terry M. Rich

Chief Executive Officer

Alphatec Holdings, Inc.

5818 El Camino Real

Carlsbad, CA 92008

(760) 431-9286

(Name, address, including ZIP code, and telephone number, including area code, of agent for service)

Copies to:

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Alphatec Holdings, Inc.
5818 El Camino Real
Carlsbad, California 92008
(760) 431-9286**

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective on filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Class of Securities to be Registered	Number of Shares to be Registered(1)	Proposed	Proposed	Amount of Registration Fee
		Maximum Offering Price Per Share(2)	Maximum Aggregate Offering Price(2)(3)	
Common Stock, \$0.0001 par value per share	1,809,628	\$1.985	\$3,592,111.58	\$416.33
Shares of Common Stock, par value \$0.0001 per share, issuable upon conversion of shares of Series A Convertible Preferred Stock(4)	7,622,372	\$1.985	\$15,130,408.42	\$1,753.62
Shares of Common Stock, par value \$0.0001 per share, issuable upon exercise of warrants(5)	9,903,600	\$1.985	\$19,658,646.00	\$2,278.44

- (1) Pursuant to Rule 416 under the Securities Act of 1933, as amended (the Securities Act), this Registration Statement also includes an indeterminate number of additional shares of common stock as may from time to time become issuable by reason of stock splits, stock dividends, recapitalizations or other similar transactions.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) of the Securities Act based upon the average of the high and low prices of the Registrant's common stock as reported on the NASDAQ Global Select Market on April 21, 2017.
- (3) The proposed maximum aggregate offering price of the common stock underlying the Series A Convertible Preferred Stock and issuable upon exercise of the warrants is based upon the Series A Convertible Preferred Stock converting at a price of \$2.00 per share and the warrants being exercised at a price per share equal to \$2.00 or \$2.50, as applicable.
- (4) Represents shares issuable upon conversion of shares of Series A Convertible Preferred Stock, with each share of Series A Convertible Preferred Stock having a stated value of \$1,000 per share and a fixed conversion price into shares of common stock of \$2.00 per share.
- (5) Represents 9,432,000 shares issuable upon exercise of common stock warrants, at a fixed exercise price of \$2.00 per share, and 471,600 shares issuable upon exercise of common stock warrants, at a fixed exercise price of \$2.50 per share.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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The information in this prospectus is not complete and may be changed. The selling stockholders may not sell the securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED APRIL 25, 2017

PROSPECTUS

19,335,600 Shares of Common Stock

ALPHATEC HOLDINGS, INC.

This prospectus relates to the resale or other disposition by the selling stockholders identified in this prospectus of up to 19,335,600 shares of our common stock. Of these shares, 1,809,628 shares are outstanding shares of common stock held by certain of the selling stockholders, 7,622,372 shares are issuable upon the conversion of our Series A Convertible Preferred Stock held by the selling stockholders and 9,903,600 shares are issuable upon the exercise of outstanding warrants to purchase our common stock held by the selling stockholders, issued in connection with a private placement we completed on March 29, 2017.

We are not selling any shares of common stock under this prospectus and will not receive any of the proceeds from the sale or other disposition of common stock by the selling stockholders. To the extent the warrants are exercised for cash, if at all, we will receive the exercise price of the warrants.

The selling stockholders or their pledgees, assignees or successors-in-interest may offer and sell or otherwise dispose of the shares of common stock described in this prospectus from time to time through public or private transactions at prevailing market prices, at prices related to prevailing market prices or at privately negotiated prices. The selling stockholders will bear all commissions and discounts, if any, attributable to the sales of shares. We will bear all costs, expenses and fees in connection with the registration of the shares. See **Plan of Distribution** beginning on page 12 for more information about how the selling stockholders may sell or dispose of their shares of common stock.

Our common stock is listed on the NASDAQ Global Select Market under the symbol **ATEC**. On April 24, 2017, the last reported sale price of our common stock was \$1.96 per share.

Investing in our common stock involves a high degree of risk. Before making an investment decision, please read the information under the heading Risk Factors beginning on page 4 of this prospectus and in the documents incorporated by reference in this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is , 2017

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ABOUT THIS PROSPECTUS

This prospectus is a part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, utilizing a shelf registration process. Under this shelf registration process, certain selling stockholders may from time to time sell the shares of common stock described in this prospectus in one or more offerings.

We have not authorized anyone to give any information or to make any representation other than those contained or incorporated by reference in this prospectus. You must not rely upon any information or representation not contained or incorporated by reference in this prospectus. The selling stockholders are offering to sell, and seeking offers to buy, shares of our common stock only in jurisdictions where it is lawful to do so. This prospectus does not constitute an offer to sell or the solicitation of an offer to buy any shares other than the registered shares to which they relate, nor does this prospectus constitute an offer to sell or the solicitation of an offer to buy shares in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. You should not assume that the information contained in this prospectus is accurate on any date subsequent to the date set forth on the front of the document or that any information we have incorporated by reference is correct on any date subsequent to the date of the document incorporated by reference, even though this prospectus is delivered or shares are sold on a later date.

You should read this prospectus together with the additional information described under the headings **Where You Can Find More Information** and **Incorporation of Certain Information by Reference**.

The Alphatec name and logo and the names of products and services offered by Alphatec and Alphatec Spine, Inc. are trademarks, registered trademarks, service marks or registered service marks of Alphatec. All other trademarks, trade names and service marks appearing in this prospectus or the documents incorporated by reference herein are the property of their respective owners. Use or display by us of other parties' trademarks, trade dress or products is not intended to and does not imply a relationship with, or endorsements or sponsorship of, us by the trademark or trade dress owner. Solely for convenience, trademarks and tradenames referred to in this prospectus appear without the ® and TM symbols, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or that the applicable owner will not assert its rights, to these trademarks and tradenames.

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PROSPECTUS SUMMARY

This summary description about us and our business highlights selected information contained elsewhere in this prospectus or incorporated in this prospectus by reference. This summary does not contain all of the information you should consider before investing in our common stock. You should carefully read this entire prospectus, including each of the documents incorporated herein by reference, before making an investment decision. As used in this prospectus, the terms we, us, our, Alphatec Holdings and Alphatec mean Alphatec Holdings, Inc. and our subsidiaries.

Alphatec Holdings, Inc.

Overview

We are a medical technology company focused on the design, development and promotion of products for the surgical treatment of spinal disorders. Our mission is to improve patient lives by delivering advancements in spinal fusion technologies. We have a comprehensive product and procedural portfolio, as well as a pipeline that addresses the cervical, thoracolumbar and intervertebral regions of the spine and covers a variety of spinal disorders from degenerative disease to complex deformity and trauma. Our principal product offerings are focused on the U.S. market for fusion-based spinal disorder solutions. We believe that our products and procedural offerings are attractive to surgeons, hospitals, and patients due to innovative features and benefits that are designed to streamline surgical procedures, improve patient outcomes, while delivering predictable results at lower costs.

Our goal is to build a high-growth organization focused on innovation and value delivery. By working with world class surgeons to simplify procedures and deliver better outcomes, we believe that we will be positioned to take a greater share of the U.S. spine market, becoming the partner of choice for spine surgeons, hospitals, healthcare systems and payors.

Corporate Information

We are a Delaware corporation. We were incorporated in March 2005. Our principal executive office is located at 5818 El Camino Real, Carlsbad, California 92008. Our Internet address is www.alphatecspine.com. Our website, and the information contained therein, is not a part of this prospectus.

Summary of Private Placement

On March 29, 2017, or the Closing, we closed a private placement, or the Private Placement, pursuant to a securities purchase agreement, dated as of March 22, 2017, or the Securities Purchase Agreement, between us and certain of the selling stockholders. At the Closing, we issued 1,809,628 shares of our common stock, 15,244,744 shares of our Series A Convertible Preferred Stock (convertible into 7,622,372 shares of our common stock following receipt of the stockholder approval required by the Securities Purchase Agreement), and warrants to purchase 9,432,000 shares of our common stock at an exercise price per share of \$2.00, or the Purchase Warrants, with a term of five years following receipt of the stockholder approval required under the Securities Purchase Agreement. The aggregate gross proceeds from the Private Placement were approximately \$18.9 million. We intend to use the net proceeds from the Private Placement for general corporate and working capital purposes. Certain of our directors and executive officers purchased an aggregate of \$2.35 million of shares of Series A Convertible Preferred Stock, which shares are convertible into approximately 1,175,000 shares of common stock, and warrants to purchase up to 1,175,000 shares of common stock. H.C. Wainwright & Co., LLC, or HCW, served as the sole placement agent for the Private Placement. We also issued HCW and its designees warrants, or the HCW Warrants and, together with the Purchase Warrants, the

Warrants, for the purchase of 471,600 shares of our common stock at an exercise price of \$2.50 per share pursuant to the terms of our letter agreement with HCW, which HCW Warrants are exercisable for a period of five years following receipt of the stockholder approval required under the Securities Purchase Agreement and.

As part of the Private Placement, we entered into a registration rights agreement with certain of the selling stockholders, or the Registration Rights Agreement, pursuant to which we agreed to file a registration statement to register for resale the shares of common stock sold and issued in the Private Placement, including the shares of common stock issuable upon conversion of the shares of Series A Convertible Preferred Stock and upon the exercise of the Warrants sold in the Private Placement, within 30 days following the Closing. We are required to use our reasonable best efforts to cause the registration statement to be declared effective under the Securities Act of 1933, as amended, or the Securities Act, as soon as practicable, but in no event later than 60 days after the Closing (or 90 days in the event of a full review of the registration statement by the SEC). We agreed to keep the registration statement effective until all registrable securities may be sold pursuant to Rule 144 under the Securities Act, without the need for current public information or other restriction. The issuance of the shares of common stock, the Series A Convertible Preferred Stock and the Warrants in connection with the Private Placement was exempt from registration under the Securities Act pursuant to the exemption for transactions by an issuer not involving a public offering under Section 4(a)(2) of the Securities Act and Regulation D promulgated thereunder. Please see Description of Capital Stock for a description of the Warrants, Series A Convertible Preferred Stock and Registration Rights Agreement.

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The Offering

Selling stockholders	Institutional and accredited investors who purchased shares of our common stock, Series A Convertible Preferred Stock and Warrants in a private placement in March 2017
Common stock offered by the selling stockholders	Up to 19,335,600 shares, including 7,622,372 shares of our common stock issuable upon conversion of shares of our Series A Convertible Preferred Stock and 9,903,600 shares of our common stock issuable upon exercise of Warrants.
Use of proceeds	We will not receive any proceeds from the sale or other disposition of the shares of common stock offered hereby. However, if all of the Warrants were exercised for cash, we would receive gross proceeds of approximately \$20 million. We currently intend to use such proceeds, if any, for working capital and general corporate purposes.
Risk factors	Investing in our common stock involves a high degree of risk. See Risk Factors beginning on page 4 of this prospectus, and any other risk factors described in the documents incorporated by reference herein, for a discussion of factors that you should carefully consider before deciding to invest in our common stock.
NASDAQ Global Select Market symbol	ATEC

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RISK FACTORS

An investment in our common stock involves a high degree of risk. Prior to making a decision about investing in our common stock, you should carefully consider the risks, uncertainties and assumptions discussed under Item 1A, Risk Factors, in our Annual Report on Form 10-K for the fiscal year ended December 31, 2016, as updated by our subsequent filings with the Securities and Exchange Commission, or the SEC, under the Securities Exchange Act of 1934, as amended, or the Exchange Act, which are incorporated herein by reference, together with the information in this prospectus and any other information incorporated by reference into this prospectus. See the sections of this prospectus entitled Where You Can Find More Information and Incorporation of Certain Information by Reference. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business, financial condition or results of operations. The occurrence of any of these known or unknown risks might cause you to lose all or part of your investment in our common stock.

FORWARD-LOOKING STATEMENTS

This prospectus and the information and documents incorporated by reference in this prospectus contain certain statements that constitute forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act, including statements regarding:

our estimates regarding anticipated operating losses, future revenue, expenses, capital requirements, uses and sources of cash and liquidity, including our anticipated revenue growth and cost savings;

our ability to meet the financial covenants under our credit facilities;

our ability to ensure that we have effective disclosure controls and procedures;

our not realizing the full economic benefit from the Globus Transaction, including as a result of indemnification claims under the definitive agreement and the retention by us of certain liabilities associated with the international business, and our ability to meet our obligations under the Globus Supply Agreement;

our ability to meet and potential liability from not meeting the payment obligations under the Orthotec settlement agreement;

our ability to regain and maintain compliance with the quality requirements of the FDA;

our ability to market, improve, grow, commercialize and achieve market acceptance of any of our products or any product candidates that we are developing or may develop in the future;

our beliefs about the features, strengths and benefits of our products;

our ability to continue to enhance our product offerings, outsource our manufacturing operations and expand the commercialization of our products, and the effect of our strategy;

our expectations about the timing, costs and benefits of the restructuring and outsourcing of our manufacturing operations;

our beliefs about the ability of our supplier relationships and quality processes to fulfill our production requirements;

our ability to successfully integrate, and realize benefits from licenses and acquisitions;

the effect of any existing or future federal, state or international regulations on our ability to effectively conduct our business;

our estimates of market sizes and anticipated uses of our products;

our business strategy and our underlying assumptions about market data, demographic trends, reimbursement trends and pricing trends;

our ability to achieve profitability, and the potential need to raise additional funding;

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our ability to maintain an adequate sales network for our products, including to attract and retain independent distributors;

our ability to enhance our U.S. distribution network;

our ability to increase the use and promotion of our products by training and educating surgeons and our sales network;

our ability to attract and retain a qualified management team, as well as other qualified personnel and advisors;

our ability to enter into licensing and business combination agreements with third parties and to successfully integrate the acquired technology and/or businesses;

our management team's ability to accommodate growth and manage a larger organization;

our ability to protect our intellectual property, and to not infringe upon the intellectual property of third parties;

the effects of the escalating cost of medical products and services and the effects of market demand, government regulation, third-party reimbursement policies and societal pressures on the healthcare industry and our business;

our ability to meet or exceed the industry standard in clinical and legal compliance and corporate governance programs;

our beliefs about our competitors and the principal competitive factors in our market and the effect of non-operative treatments on demand for our products;

potential liability resulting from litigation;

our beliefs about our employee relations;

potential liability resulting from a governmental review of our business practices;

our beliefs about the usefulness of the non-GAAP financial measures included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2016;

our beliefs with respect to our critical accounting policies and the reasonableness of our estimates and assumptions; and

other factors discussed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2016 or any document incorporated by reference herein or therein.

Any or all of our forward-looking statements included or incorporated by reference in this prospectus may turn out to be wrong. They can be affected by inaccurate assumptions by known or unknown risks and uncertainties. Many factors mentioned in our discussion included or incorporated by reference in this prospectus will be important in determining future results. Consequently, no forward-looking statement can be guaranteed. Actual future results may vary materially from expected results.

We also provide a cautionary discussion of risks and uncertainties under **Risk Factors** in this prospectus. Other factors besides those discussed could also adversely affect us.

Without limiting the foregoing, the words **believe, anticipate, plan, expect, estimate, may, will, should, seek, intend, continue, project,** and similar expressions are intended to identify forward-looking statements. There are a number of factors and uncertainties that could cause actual events or results to differ materially from those indicated by such forward-looking statements, many of which are beyond our control, including the factors discussed under **Risk Factors** herein. In addition, the forward-looking statements contained herein represent our estimate only as of the date of this prospectus and should not be relied upon as representing our estimate as of any subsequent date. While we may elect to update these forward-looking statements at some point in the future, we specifically disclaim any obligation to do so to reflect actual results, changes in assumptions or changes in other factors affecting such forward-looking statements.

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USE OF PROCEEDS

We will not receive any of the proceeds from the sale of shares of our common stock in this offering by the selling stockholders. The selling stockholders will receive all of the proceeds from this offering.

A portion of the shares covered by this prospectus are issuable upon exercise of warrants to purchase shares of our common stock. Pursuant to conditions set forth in the warrants, the warrants are exercisable under certain circumstances on a cashless basis, and should a selling stockholder elect to exercise on a cashless basis we will not receive any proceeds from the sale of common stock issued upon the cashless exercise of the warrant. The holders of the Warrants are not obligated to exercise their Warrants, and we cannot predict whether holders of the Warrants will choose to exercise all or any of their Warrants or if they will do so for cash or on a cashless basis. However, if all of the Warrants were exercised for cash, we would receive gross proceeds of approximately \$20 million. We currently intend to use such proceeds, if any, for working capital and general corporate purposes.

We have agreed to pay all costs, expenses and fees relating to the registration of the shares of our common stock covered by this prospectus. The selling stockholders will pay any brokerage commissions and/or similar charges incurred in connection with the sale or other disposition by them of the shares covered hereby.

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SELLING STOCKHOLDERS

The shares of common stock being offered by the selling stockholders are those previously issued to the selling stockholders, and those issuable to the selling stockholders upon conversion of the Series A Convertible Preferred Stock and exercise of the Warrants. For additional information regarding the issuances of those securities, see

Prospectus Summary Summary of Private Placement above. We are registering the shares of common stock in order to permit the selling stockholders to offer the shares for resale from time to time. Except for the sale and issuance of the shares of common stock, the Series A Convertible Preferred Stock and the Warrants and except as otherwise disclosed in the footnotes below, the selling stockholders have not had any material relationship with us within the past three years. Other than Michael Vasinkevich, HCW, Noam Rubinstein, Mark Viklund and Charles Worthman, to our knowledge, none of the selling stockholders are affiliates of broker-dealers. Each of Michael Vasinkevich, HCW, Noam Rubinstein, Mark Viklund and Charles Worthman represented to us that they purchased or received the securities in the ordinary course of business and at the time of purchase, had no agreements or understandings, directly or indirectly, with any person to distribute the securities.

The table below lists the selling stockholders and other information regarding the beneficial ownership of the shares of common stock by each of the selling stockholders. The second column lists the number of shares of common stock beneficially owned by each selling stockholder, based on its ownership of the shares of common stock, Series A Convertible Preferred Stock and Warrants, as of the Closing, assuming full exercise of the Warrants and conversion of the Series A Convertible Preferred Stock held by the selling stockholders on that date, without regard to any limitations on conversions or exercises. The third column lists the number of shares of common stock being offered by this prospectus by the selling stockholders.

In accordance with the terms of the Registration Rights Agreement with the selling stockholders, this prospectus generally covers the resale of the sum of (i) the number of shares of common stock issued to the selling stockholders in the Private Placement, (ii) the maximum number of shares of common stock issuable upon exercise of the related Warrants, (iii) the maximum number of shares of common stock issuable upon conversion of the shares of our Series A Convertible Preferred Stock, each as of the trading day immediately preceding the applicable date of determination and all subject to adjustment as provided in the registration right agreement, without regard to any limitations on the exercise of the Warrants or conversion of the Series A Convertible Preferred Stock. The fourth and fifth columns list the number of shares of common stock and percentage of our outstanding common stock to be held by the selling stockholder assuming the sale of all of the shares offered by the selling stockholders pursuant to this prospectus.

Until the date that our stockholders approve the Private Placement, (i) the Certificate of Designation of Preferences, Rights and Limitations of Series A Convertible Preferred Stock, or the Certificate of Designation, limits the number of shares of common stock issuable upon conversion of the Series A Preferred Stock such that, when aggregated with the shares of common stock issued at the Closing of the Private Placement, such issuances will not exceed 20% of our issued and outstanding common stock before the Closing, as required by the rules and regulations of the NASDAQ Global Select Market and (ii) the Warrants restrict the exercise of the Warrants.

Under the terms of the Warrants, the selling stockholders, at their election, may not exercise the Common Stock to the extent such exercise would cause such selling stockholders, together with its affiliates and attribution parties, to beneficially own a number of shares of common stock which would exceed 4.99% of our then outstanding common stock following such exercise (subject to adjustment up to 9.99% upon the fulfillment of certain conditions), excluding for purposes of such determination shares of common stock issuable upon exercise of the warrants which have not been exercised. In addition, our shares of Series A Convertible Preferred Stock may not be converted by certain of the selling stockholders, at their election, if such conversion would cause such selling stockholder, together with its affiliates and attribution parties, to beneficially own a number of shares of common stock that would exceed

4.99% of our then outstanding common stock following such conversion (subject to adjustment up to 9.99% upon the fulfillment of certain conditions). The number of shares in the first and second columns below does not reflect the limitations set forth in this paragraph and the immediately preceding paragraph. The selling stockholders may sell all, some or none of their shares in this offering. See Plan of Distribution.

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Name of Selling Stockholder	Number of Shares of Common Stock Owned Prior to Offering⁽¹⁾	Maximum Number of Shares of Common Stock to be Sold Pursuant to this Prospectus⁽¹⁾	Number of Shares of Common Stock Owned After Offering⁽²⁾	Percentage of Class Following the Offering⁽²⁾
Armistice Capital Master Fund, Ltd.	4,800,000(3)	4,800,000(3)	0	
Sabby Healthcare Master Fund, Ltd.	2,800,000(4)	2,800,000(4)	0	
Sabby Volatility Warrant Master Fund, Ltd.	1,000,000(5)	1,000,000(5)	0	
Broadfin Healthcare Master Fund, Ltd.	2,000,000(6)	2,000,000(6)	0	
Evan Bakst	902,000(7)	800,000(7)	102,000	*
Samir Patel	259,369(8)	250,000(8)	9,369	*
Amit M. Patel	209,916(9)	200,000(9)	9,916	*
Kantilal K. Patel	212,250(10)	200,000(10)	12,250	*
Manish K. Patel	213,000(11)	200,000(11)	13,000	*
MOM, Inc.	500,000(12)	500,000(12)	0	
Lawrence W. Rosenfeld Roth IRA TD Ameritrade	74,000(13)	74,000(13)	0	
John P. Curtin, Jr	100,000(14)	100,000(14)	0	
Cyrano Investments USA Inc.	250,000(15)	250,000(15)	0	
Curtis H. Cooper	500,000(16)	500,000(16)	0	
Mark Rutkin	50,000(17)	50,000(17)	0	
Allen-Chase Foundation DBA Eaglebrook School	300,000(18)	300,000(18)	0	
Woods 1994 Family Partnership, LP	1,000,000(19)	1,000,000(19)	0	
Mital Sheth	40,000(20)	40,000(20)	0	
Lukpartners, LLC	250,000(21)	250,000(21)	0	
Yancey Family Trust Dated 11-15-2002	250,000(22)	250,000(22)	0	
David Mazza	250,000(23)	250,000(23)	0	
BLR Partners, LP	360,000(24)	200,000(24)	160,000	*
Porcupine Investment Partners, LLC	400,000(25)	400,000(25)	0	
Mortimer Berkowitz III	3,049,912(26)	400,000(26)	2,649,912	29.3
Terry Rich	502,500(27)	500,000(27)	2,500	*
Craig E. Hunsaker	510,416(28)	500,000(28)	10,416	*
Jon Allen	250,000(29)	250,000(29)	0	
Michael Plunkett	189,054(30)	150,000(30)	39,054	*
Brian Snider	100,000(31)	100,000(31)	0	
IRA Resources FBO Jeffrey G Black 35-36600	50,000(32)	50,000(32)	0	
Chris Ryan	250,000(33)	250,000(33)	0	
Jeff Rydin	200,000(34)	200,000(34)	0	
Amy M. Ables	50,000(35)	50,000(35)	0	
Michael Vasinkevich	162,702(36)	162,702(36)	0	

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H.C. Wainwright & Co., LLC	141,480(37)	141,480(37)	0
Noam Rubinstein	148,554(38)	148,554(38)	0
Mark Viklund	14,148(39)	14,148(39)	0
Charles Worthman	4,716(40)	4,716(40)	0

* Less than one percent of our outstanding shares of common stock.

- (1) Assumes the exercise for cash of all of the warrants and conversion of all shares of our Series A Convertible Preferred Stock, irrespective of limitations on exercise or conversion, as applicable.
- (2) Represents the number of shares of common stock that will be beneficially owned by the selling stockholder after completion of this offering based on the assumptions that (i) all of the shares of common stock registered for resale by the registration statement of which this prospectus is a part will be sold and (ii) no other shares of common stock will be acquired or sold by the selling stockholder before completion of this offering. However, the selling stockholder may sell all, part or none of its shares of common stock offered pursuant to this prospectus and may sell all, part or none of its common stock pursuant to one or more exemptions from the registration provisions of the Securities Act. Applicable percentage ownership following the offering is based on 9,048,145 shares of common stock that would be outstanding following the offering if all shares registered by this prospectus are sold in the offering.

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- (3) Includes (i) 1,857,586 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 2,400,000 shares of common stock issuable upon the exercise of Warrants. Armistice Capital, LLC is an investment manager to Armistice Capital Master Fund, Ltd. and Steven J. Boyd, the chief investment officer of Armistice Capital, LLC, may be deemed to have voting and investment power with respect to the securities held by Armistice Capital Master Fund Ltd. The selling stockholder's address is c/o Armistice Capital, LLC, 510 Madison Ave; 22nd Floor New York, NY 10022.
- (4) Includes (i) 1,083,593 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 1,400,000 shares of common stock issuable upon the exercise of Warrants. This stockholder has indicated that Hal Mintz has voting and investment power over the shares held by it. This stockholder has indicated that Sabby Management, LLC serves as its investment manager, that Mr. Mintz is the manager of Sabby Management, LLC, and that each of Sabby Management, LLC and Mr. Mintz disclaim beneficial ownership over these shares except to the extent of any pecuniary interest therein. The selling stockholder's address is c/o Sabby Management, LLC, 10 Mountainview Road, Suite 205, Upper Saddle River, NJ 07458.
- (5) Includes (i) 386,998 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 500,000 shares of common stock issuable upon the exercise of Warrants. This stockholder has indicated that Hal Mintz has voting and investment power over the shares held by it. This stockholder has indicated that Sabby Management, LLC serves as its investment manager, that Mr. Mintz is the manager of Sabby Management, LLC, and that each of Sabby Management, LLC and Mr. Mintz disclaim beneficial ownership over these shares except to the extent of any pecuniary interest therein. The address for Sabby Volatility Warrant Master Fund, Ltd. is c/o Sabby Management, LLC, 10 Mountainview Road, Suite 205, Upper Saddle River, NJ 07458.
- (6) Includes (i) 773,994 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 1,000,000 shares of common stock issuable upon the exercise of Warrants. This stockholder has indicated that each of Kevin Kotler and Broadfin Capital, LLC share has voting and investment power over the shares held by it. The address for Broadfin Healthcare Master Fund, Ltd. is c/o 300 Park Avenue, 25th Floor, New York, NY 10022.
- (7) Includes (i) 309,598 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 400,000 shares of common stock issuable upon the exercise of Warrants.
- (8) Includes (i) 96,749 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 125,000 shares of common stock issuable upon the exercise of Warrants. The selling stockholder's address is 6 Zelkova Run Rd, Moorestown, NJ 08057.
- (9) Includes (i) 77,399 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 100,000 shares of common stock issuable upon the exercise of Warrants. The selling stockholder's address is 30 Stonehouse Court, Belle Mead, NJ 08502.
- (10) Includes (i) 77,399 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 100,000 shares of common stock issuable upon the exercise of Warrants. The selling stockholder's address is 20 Reagan Lane, Voorhees NJ 08043.
- (11) Includes (i) 77,399 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 100,000 shares of common stock issuable upon the exercise of Warrants. The selling stockholder's address is 51 Keystone Court, Basking Ridge, NJ 07920.
- (12) Includes (i) 193,499 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 250,000 shares of common stock issuable upon the exercise of Warrants.
- (13) Includes (i) 28,638 shares of common stock issuable upon conversion of shares of Series A Convertible Preferred Stock and (ii) 37,000 shares of common stock issuable upon the exercise of Warrants. The se