UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **September 26, 2019**

OCUGEN, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**001-36751**	**04-3522315**
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification Number)

5 Great Valley Parkway, Suite 160
Malvern, Pennsylvania 19355
(484) 328-4701
(Addresses, including zip code, and telephone numbers, including area code, of principal executive offices)

Histogenics Corporation
c/o Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP
One Marina Park Drive, Suite 900
Boston, MA 02210
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

o Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

o Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

o Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

o Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, par value $0.01	OCGN	The Nasdaq Stock Market LLC (The Nasdaq Capital Market)

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company x

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. o

Item 1.01 Entry into a Material Definitive Agreement.

Co-development and Commercialization Agreement

On September 27, 2019, the Company (as defined in Item 2.01 below) entered into a co-development and commercialization agreement (the "Agreement") with CanSino Biologics Inc. ("CanSinoBIO", 6185.HK) with respect to the development and commercialization of the Company's gene therapy product candidate, OCU400, for the treatment of NR2E3 Mutation-Associated Retinal Degeneration, Leber Congenital Amaurosis, Bardet-Biedl Syndrome and Rhodopsin Mutation-Associated Retinal Degeneration (collectively, the "Field").

Under the Agreement, the Company and CanSinoBIO will collaborate on the development of OCU400 in the Field and CanSinoBIO will be responsible for the Chemistry, Manufacturing and Controls ("CMC") development and manufacture of clinical supplies of OCU400. The Agreement also grants CanSinoBIO an exclusive option (the "Option") to obtain a non-exclusive license from the Company to manufacture Products in the Field for commercial sale by the Company, subject to the terms of a supply agreement to be negotiated by the Company and CanSinoBIO upon CanSinoBIO's exercise of the Option. CanSinoBIO will have an exclusive license under the Company's intellectual property and intellectual property jointly developed by CanSinoBIO and the Company (the "Joint IP") to develop, manufacture and commercialize products containing OCU400 ("Products") in the Field in and for China, Hong Kong, Macau, and Taiwan (the "CanSinoBIO Territory") and the Company will maintain exclusive development, manufacturing and commercialization rights under the Company's intellectual property and have an exclusive license under the Joint IP with respect to Products in the Field in and for any global location outside the CanSinoBIO Territory (the "Company's Territory"). During the term of the Agreement, CanSinoBIO will not, without the Company's consent, develop, manufacture or commercialize and product in the Field that is competitive with the Product.

CanSinoBIO will be solely responsible for all costs and expenses of its development activities in the Field in the CanSinoBIO Territory, which, among other activities, include CMC development and manufacture of clinical supplies of OCU400 for the Company, and the Company will be responsible for all of the costs and expenses of its development activities in the Field in Company's Territory. CanSinoBIO will pay to the Company an annual royalty between mid to high single digits based on net sales of Products in the CanSinoBIO Territory, and the Company will pay to CanSinoBIO an annual royalty between low to mid single digits based on net sales of Products in the Company Territory.

Unless terminated earlier, the Agreement will continue in force on a country-by-country and product-by-product basis until the later of (a) the expiration of the last valid claim of the Company's patent rights covering such Product and (b) the tenth (10th) anniversary of the first commercial sale of such Product in such country. The Agreement will also terminate upon the termination of the Exclusive License Agreement (the "SERI Agreement"), dated December 19, 2017, between the Company and Schepens Eye Research Institute, Inc. ("SERI"). The Agreement may be terminated by either party in its entirety upon (a) a material breach of the Agreement by the other party, (b) a challenge by the other party or any of its affiliates of any intellectual property controlled by the terminating party or (c) bankruptcy or insolvency of the other party.

The foregoing description of the Agreement does not purport to be complete and is qualified it its entirety by reference to the Agreement, which the Company intends to file as an exhibit to its Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2019.

Amendment to Asset Purchase Agreement

On September 26, 2019, the Company entered into an amendment to a previously disclosed asset purchase agreement between the Company and Medavate Corp., a Colorado corporation, in order to amend the closing date to October 4, 2019, for the sale of substantially all the assets of the NeoCart program, including, without limitation, intellectual property, business and license agreements and clinical trial data, in return for a cash payment of $6.5 million. The foregoing description is not complete and is qualified in its entirety by reference to the full text of Amendment No. 1 to Asset Purchase Agreement, which is filed herewith as Exhibit 10.1, and incorporated herein by reference.

Item 2.01 Completion of Acquisition or Disposition of Assets.

On September 27, 2019, Ocugen, Inc., formerly known as Histogenics Corporation (the "Company"), completed its business combination with Ocugen, Inc., a Delaware corporation ("Ocugen"), in accordance with the terms of the Agreement and Plan of Merger and Reorganization, dated as of April 5, 2019 (the "Merger Agreement"), by and among the Company, Ocugen and Restore Merger Sub, Inc., a Delaware corporation and wholly-owned subsidiary of the Company ("Merger Sub"), as amended by Consent and Amendment No. 1 thereto made and entered into as of June 13, 2019 (the "First Amendment") (the Merger Agreement, as amended by the First Amendment, the "Amended Merger Agreement"), pursuant to which Merger Sub merged with and into Ocugen, with Ocugen surviving as a wholly owned subsidiary of the Company (the "Merger"). In connection with, and immediately prior to the completion of, the Merger, the Company effected a reverse stock split of the Company's common stock, par value $0.01 per share ("Common Stock"), at a ratio of 1-for-60 (the "Reverse Stock Split"). Immediately after completion of the Merger, the Company changed its name to "Ocugen, Inc." and the business conducted by the Company became the business conducted by Ocugen, which is a clinical-stage biopharmaceutical company focused on discovering, developing and commercializing a pipeline of innovative therapies that address rare and underserved eye diseases.

Under the terms of the Amended Merger Agreement, the Company issued shares of Common Stock to Ocugen's stockholders at an exchange rate of 0.4794 shares of Common Stock, after taking into account the Reverse Stock Split, for each share of Ocugen's common stock outstanding immediately prior to the Merger. The exchange rate was determined through arms'-length negotiations between the Company and Ocugen. The Company also assumed all outstanding and unexercised warrants and options to purchase shares of Ocugen's common stock, and in connection with the Merger they were converted into warrants and options, as applicable, to purchase Common Stock, with the number of shares subject to such warrant or option, and the exercise price, being appropriately adjusted to reflect the exchange rate of 0.4794 shares of Common Stock for each share of Ocugen's common stock.

Immediately after the Merger, there were approximately 11.5 million shares of Common Stock outstanding (assuming no release from escrow of approximately 2.2 million Additional Shares (as defined in Item 8.01 of this Current Report on Form 8-K)), and the former stockholders, option holders and warrant holders of Ocugen owned, or held rights to acquire, in the aggregate approximately 86.24% of the fully-diluted Common Stock, which for these purposes is defined as the outstanding Common Stock, plus Series A Convertible Preferred Stock and outstanding warrants of the Company (the "Fully-Diluted Common Stock"), with the Company's stockholders and warrant holders immediately prior to the Merger owning, or holding rights to acquire, approximately 13.76% of the Fully-Diluted Common Stock.

The shares of Common Stock issued to the former stockholders of Ocugen were registered with the Securities and Exchange Commission (the "SEC") on a Registration Statement on Form S-4 (Reg. No. 333-232147), as amended (the "Registration Statement").

The Common Stock listed on the Nasdaq Capital Market, previously trading through the close of business on September 27, 2019 under the ticker symbol "HSGX," commenced trading on the Nasdaq Capital Market, on a post-Reverse Stock Split adjusted basis, under the ticker symbol "OCGN" on September 30, 2019. The Common Stock has a new CUSIP number, 67577C 105.

The foregoing description of the Amended Merger Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Merger Agreement that was filed as Exhibit 2.1 to the Company's Current Report on Form 8-K filed with the SEC on April 8, 2019, and the full text of the First Amendment that was filed as Exhibit 2.1 to the Company's Current Report on Form 8-K filed with the SEC on June 14, 2019, each of which is incorporated herein by reference.

On September 30, 2019, the Company issued a press release announcing the completion of the Merger. A copy of the press release is filed herewith as Exhibit 99.1, and incorporated herein by reference.

Item 3.03 Material Modification to Rights of Security Holders

As previously disclosed, at a special meeting of the Company's stockholders held on September 26, 2019 (the "Special Meeting"), in addition to approving the Merger, the Company's stockholders approved an amendment to the Company's Sixth Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation") to effect the Reverse Stock Split, approved an amendment to the Certificate of Incorporation to increase the total number of authorized shares of Common Stock from 100,000,000 shares to 200,000,000 shares (the "Authorized Share Increase"), and approved an amendment to the Certificate of Incorporation to change the corporate name of the Company from "Histogenics Corporation" to "Ocugen, Inc." (the "Name Change").

Reverse Stock Split and Authorized Share Increase

On September 27, 2019, immediately prior to the Merger, the Company filed an amendment to the Certificate of Incorporation with the Secretary of State of the State of Delaware to effect the Reverse Stock Split and the Authorized Share Increase. As of the opening of the Nasdaq Capital Market on September 30, 2019, the Common Stock began trading on a Reverse Stock Split-adjusted basis. All share numbers in this Form 8-K have been adjusted to reflect the Reverse Stock Split.

As a result of the Reverse Stock Split, the number of issued and outstanding shares of Common Stock immediately prior to the Reverse Stock Split was reduced into a smaller number of shares, such that every 60 shares of Common Stock held by a stockholder of the Company immediately prior to the Reverse Stock Split were combined and reclassified into one share of Common Stock after the Reverse Stock Split. All outstanding and unexercised warrants to purchase shares of Common Stock otherwise remain in effect pursuant to their terms, subject to adjustment to account for the Reverse Stock Split. Immediately following the Reverse Stock Split, there were approximately 1.6 million shares of Common Stock outstanding prior to the Merger.

Because the Reverse Stock Split took place prior to the Merger, the exchange ratio of 28.7650 set forth in the Amended Merger Agreement was adjusted to an exchange rate of 0.4794 shares of Common Stock per share of Ocugen common stock to reflect the Reverse Stock Split. No fractional shares were issued in connection with the Reverse Stock Split. Stockholders who otherwise would be entitled to receive fractional shares instead are entitled to receive cash in lieu of their fractional shares.

The Reverse Stock Split had no effect on the par value of the Common Stock, or the rights and privileges of the holders of Common Stock or preferred stock, and did not affect any stockholder's percentage ownership interest in the Company, except to the extent that it resulted in any stockholders owning a fractional share. As approved by the Company's stockholders, the Reverse Stock Split made no corresponding adjustment with respect to the Company's authorized capital stock, although the

Authorized Share Increase increased the number of authorized shares of Common Stock from 100,000,000 to 200,000,000.

The Authorized Share Increase has no immediate dilutive effect on the proportionate voting power or other rights of the Company's existing stockholders. The Company's Board of Directors (the "Board") has no current plan to issue shares from the additional authorized shares provided by the Authorized Share Increase Amendment. However, any future issuance of additional authorized shares of Common Stock may, among other things, dilute the earnings per share of the Common Stock and the equity and voting rights of those holding Common Stock at the time the additional shares are issued. Additionally, this potential dilutive effect may cause a reduction in the market price of the Common Stock.

The foregoing description of the Reverse Stock Split and the Authorized Share Increase does not purport to be complete and is qualified in its entirety by reference to the complete text of the amendment to the Certificate of Incorporation that effected the Reverse Stock Split and the Authorized Share Increase, which is filed herewith as Exhibit 3.1, and incorporated herein by reference.

Name Change

On September 27, 2019, immediately after the Merger, the Company filed an amendment to the Certificate of Incorporation with the Secretary of State of the State of Delaware to effect the Name Change, which changed the Company's name from "Histogenics Corporation" to "Ocugen, Inc." The Name Change did not alter the voting powers or relative rights of the Common Stock.

On September 30, 2019, the trading symbol on the Nasdaq Capital Market for the Common Stock was changed from HSGX to OCGN solely to reflect the Name Change.

The foregoing description of the Name Change does not purport to be complete and is qualified in its entirety by reference to the complete text of the amendment to the Certificate of Incorporation that effected the Name Change, which is filed herewith as Exhibit 3.2, and incorporated herein by reference.

Item 5.01 Changes in Control of Registrant

The information set forth in Item 2.01 of this Current Report on Form 8-K is incorporated by reference into this Item 5.01.

In accordance with the Amended Merger Agreement, on September 27, 2019, immediately prior to the effective time of the Merger, each of the directors of the Company resigned from the Board. Following such resignations and effective as of the effective time of the Merger, the Board was increased to a total of seven directors and the following individuals, all of whom were directors of Ocugen prior to the Merger, were appointed to the Board: Uday B. Kompella, Ph.D. and Manish Potti, as directors whose terms expire at the Company's 2019 annual meeting of stockholders; Frank Leo and Suha Taspolatoglu, M.D, as directors whose terms expire at the Company's 2020 annual meeting of stockholders; and Ramesh Kumar, Ph.D., Shankar Musunuri, Ph.D., MBA and Junge (John) Zhang, Ph.D., as directors whose terms expire at the Company's 2021 annual meeting of stockholders.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Resignations of Executive Officers and Directors

In accordance with the Amended Merger Agreement, on September 27, 2019, immediately prior to the effective time of the Merger, (i) Adam Gridley resigned as President, Secretary and Treasurer, and Jonathan Lieber resigned as Interim Chief Financial Officer, and (ii) Adam Gridley, Joshua Baltzell,

David C. Hood and Susan B. Washer resigned from the Board and any respective committee of the Board to which they belonged, which resignations were not the result of any disagreements with the Company relating to the Company's operations, policies or practices.

Appointment of Certain Officers

In accordance with the Amended Merger Agreement, on September 27, 2019, the Board appointed the following officers of the Company, effective immediately after the effective time of the Merger: Shankar Musunuri, Ph.D., MBA, as Chairman of the Board and the Company's Chief Executive Officer, Daniel Jorgensen, M.D., M.P.H., MBA as Chief Medical Officer, Rasappa Arumugham, Ph.D. as Chief Scientific Officer, Vijay Tammara, Ph.D. as Vice President, Regulatory & Quality, and Kelly Beck, MBA, SPHR, SHRM SCP, PMP as Vice President, Investor Relations & Administration.

Shankar Musunuri, Ph.D., MBA, (age 55) is the Company's Chairman of the Board and Chief Executive Officer. He has served as Ocugen's Co-Founder and Executive Chairman of the Board since September 2013. He was appointed as Ocugen's Chief Executive Officer in May 2015. Dr. Musunuri is a seasoned biotech veteran with over 25 years of results driven experience that includes advancing and commercializing a diverse portfolio of products for numerous companies ranging from "Big Pharma" to novel start up biotechs. Dr. Musunuri was a Founder, President, Chief Executive Officer, and a board member of Nuron Biotech, Inc. from April 2010 to May 2013. Previously, Dr. Musunuri spent nearly fifteen years at Pfizer Inc. where he had held various positions of increasing leadership and responsibility. At Pfizer, his extensive experience in product launches and product life cycle management included the most successful launch in vaccine history, Prevnar 13®, where he played a key role as the Global Operations Team Leader. Prior to Pfizer, Dr. Musunuri worked for Amylin Pharmaceuticals. Dr. Musunuri has won numerous company, society and organizational awards. Dr. Musunuri obtained his PhD in Pharmaceutical Sciences from the University of Connecticut and an MBA from Duke University's Fuqua School of Business. He is a recipient of the Distinguished Alumnus Award from the University of Connecticut's School of Pharmacy. He serves on the Advisory Board of Fuqua's Center for Entrepreneurship and Innovation.

Daniel Jorgensen, M.D., M.P.H., MBA, (age 59) is the Company's Chief Medical Officer. He has served as Ocugen's Chief Medical Officer since April 2017. Prior to joining Ocugen, Dr. Jorgensen worked as Chief Medical Officer at Crestovo, LLC from April 2016 to April 2017, at Cellceutix Corporation from January 2015 to March 2016 and SANUWAVE Health, Inc. from May 2013 to September 2014. Dr. Jorgensen is an accomplished physician executive with approximately 20 years of experience in the biopharmaceutical industry, in small and large companies, including 10 years at Pfizer Inc. from January 2000 to January 2010. He has comprehensive research, development, and commercialization experience for small molecules, biologics/vaccines, and devices, across multiple therapeutic areas, particularly infectious diseases and immunology/inflammation. Dr. Jorgensen began his industry career at Pasteur Merieux Connaught in 1998, developing vaccines for hepatitis A and rabies. While at Pfizer, he led antibiotic development teams for azithromycin and dalbavancin and was named Pfizer's first Vaccine Development Team Leader. In his career, Dr. Jorgensen has developed novel antibiotics with immunomodulatory properties, such as azalides and defensin mimetics, both of which have ocular applications, and more recently, microbiome related therapies that correct dysbiosis and reinforce barrier immunity. Dr. Jorgensen has successfully ushered products from early clinical development through full regulatory approval, both in the United States and abroad, playing a key role in New Drug Applications, Biologics License Applications and FDA Advisory Committee Meetings. Prior to joining the private sector, Dr. Jorgensen was an Epidemic Intelligence Service Officer at the Centers for Disease Control and Prevention. Dr. Jorgensen received his undergraduate degree from Yale University, his MD from the University of Wisconsin, his MPH from the University of Washington, and his MBA from Yale University.

Rasappa Arumugham, Ph.D., (age 67) is the Company's Chief Scientific Officer. He joined Ocugen in March 2017 as its Vice President, Research and Development. In March 2018, he was appointed as our Chief Scientific Officer. Prior to joining Ocugen, Dr. Arumugham worked at Soligenix, Inc. as Vice President, Biopharmaceutical Development from August 2014 to March 2017 where he led the pharmaceutical development and manufacturing of biologics, peptides and small molecules in support of injectable and topical formulations. He also served as the Principal Investigator for the development of a heat stable ricin vaccine program funded by the US government. He has over 30 years of diverse experience in leading biopharmaceutical research and development in the areas of discovery and preclinical research, formulation, analytical development, quality control, technology transfer and manufacturing. He has a proven track record in drug development, scale up, and technology transfer supporting commercialization of vaccines and biologics including Prevnar®, Prevnar®13, TetramuneTM, Meningitec® and Trumenba®. Previously, he served as the Head of Microbial Analytics at the Manufacturing Division at Merck & Co., Inc. from December 2011 to September 2013. Prior to joining Merck, Dr. Arumugham spent 25 years in various biologics/vaccines research and development positions of increasing responsibilities at Pfizer Inc. and Wyeth. Dr. Arumugham earned his Ph.D. and MSc in Biochemistry and BSC in Chemistry from the University of Madras, India.

Vijay Tammara, Ph.D., (age 59) is the Company's Vice President, Regulatory & Quality. He has served as Ocugen's Vice President, Regulatory & Quality since August 2017. Prior to joining Ocugen, Dr. Tammara worked at VRT Pharma Consulting LLC as CEO and President from July 2014 to August 2017. Dr. Tammara has over 20 years of leadership experience in the field of global regulatory affairs, strategic drug development, clinical strategy, and has made significant contributions to the approval of several products. His regulatory expertise spans both oral and injectable dosage forms of small molecules, peptides, proteins, monoclonal antibodies and vaccines. Dr. Tammara previously served as VP Regulatory Affairs at Nuron Biotech Inc. from September 2010 to August 2013, Director Regulatory Affairs at Merck & Co., Inc. from March 2004 to September 2010, Senior Associate Director at Wyeth Pharmaceuticals from September 2002 to March 2004, and Assistant Director at Sanofi Synthelabo in Worldwide Regulatory Affairs from March 2000 to September 2000. Prior to industrial positions, Dr. Tammara held positions of increasing responsibility in the Office of Clinical Pharmacology and Biopharmaceutics at the FDA and received several FDA awards including the CDER Outstanding Reviewer Award, FDA Outstanding Achievement Award, and Awards of Excellence. Dr. Tammara received his Bachelor of Pharmacy from Kakatiya University, Master's in Pharmacy from Nagpur University, and Ph.D. in Pharmaceutics from the University of Louisiana, Monroe, LA.

Kelly Beck, MBA, SPHR, SHRM SCP, PMP, (age 42) is the Company's Vice President, Investor Relations and Administration. She has served as Ocugen's Vice President, Investor Relations and Administration since July 2017. Prior to joining Ocugen, Ms. Beck worked at hrQ as Vice President and Managing Director from August 2016 June to 2017. Ms. Beck brings significant experience working with start up organizations and rapid growth companies, with the last 12 years focused in the life sciences industry. In her role at the Company, she is responsible for investor relations, communications, marketing, human resources, information technology and facilities. Ms. Beck has served in senior human resources and administrative leadership roles with PRA Health Sciences from February 2015 to August 2016, DrugDev (formerly CFS Clinical) from January 2011 to January 2015, Pennsylvania Bio, from August 2009 to May 2010, Tengion, Inc. from April 2005 to August 2009 and General Fiber Communications from April 2003 to April 2005. Ms. Beck obtained her MBA from Penn State University with a concentration in biotechnology and health industry management, MS in Human Resource Development from Villanova University and her BS in Business Administration with a concentration in Accounting from Millersville University. She also holds SPHR, SHRM SCP and PMP certifications.

Appointment of Chief Financial Officer

On October 1, 2019, the Board appointed Sanjay Subramanian as the Company's Chief Financial Officer.

Sanjay Subramanian, MBA, (age 43) is the Company's Chief Financial Officer. Prior to joining the Company, Mr. Subramanian worked at Aralez Pharmaceuticals Inc. where he served as Chief Financial Officer since January 2019, and prior to that as Vice President and Treasurer from October 2015. Aralez (renamed Old API Wind-Down Ltd. in February 2019) voluntarily commenced restructuring proceedings in Canadian Court and its U.S.-based subsidiaries filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code in August 2018, which became effective in May 2019. He was the Director of Treasury at Bausch Health Companies, Inc. from 2013 to 2015. Mr. Subramanian started his finance career in 2008 at General Motors Company where he held various positions before ending as the Treasurer of GM Korea from in 2012. He obtained his MBA from MIT Sloan School of Management, a Master of Science from both MIT and The Ohio State University and a Bachelor of Technology from Indian Institute of Technology.

Mr. Subramanian serves as the Company's Chief Financial Officer pursuant to an employment agreement with Ocugen dated September 10, 2019, which became effective on October 1, 2019. Mr. Subramanian is an at-will employee, and his employment with the Company can be terminated by him or the Company at any time and for any reason. Mr. Subramanian's base salary is $325,000 per annum, which is subject to annual review and adjustment by the Company's compensation committee. In addition, Mr. Subramanian is eligible to receive a discretionary bonus in a target amount of 30% of his annual base salary, as determined by the Board in its sole discretion.

Subject to his execution and nonrevocation of a release of claims in the Company's favor, in the event of the termination of Mr. Subramanian's employment by the Company without cause or by him for good reason, each as defined in his employment agreement, Mr. Subramanian will be entitled to a lump sum payment in an amount equal to (i) six-months of his then-current annual base salary or, if such termination occurred within twelve-months after a change in control, twelve-months of his then-current annual base salary, any earned but unpaid bonus and current target bonus, as well as vesting of all unvested equity awards, and (ii) up to eighteen months of COBRA premiums for continued health benefit coverage on the same terms as were applicable to him prior to his termination.

The foregoing description of Mr. Subramanian's employment agreement does not purport to be complete and is qualified it its entirety by reference to the agreement, which the Company intends to file as an exhibit to its Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2019.

Appointment of Non-Employee Directors

In accordance with the Amended Merger Agreement, on September 27, 2019, effective immediately after the effective time of the Merger, the following individuals were appointed to the Board as non-employee directors:

Uday B. Kompella, Ph.D., (age 52) has served as Ocugen's Co-Founder and as a member of Ocugen's board of directors since September 2013, when he and Dr. Musunuri co-founded Ocugen. He is a Professor of Pharmaceutical Sciences, Ophthalmology, and Bioengineering at University of Colorado-Anschutz Medical Campus since March 2008, with research interests in the areas of drug discovery, drug delivery, and nanotechnology for treating a variety of degenerative, neovascular, and inflammatory disorders including retinitis pigmentosa, age-related macular degeneration, diabetic retinopathy, and cancers. Dr. Kompella is a Fellow of the American Association of Pharmaceutical Scientists (AAPS) and the Association for Research in Vision and Ophthalmology (ARVO) and serves as the Editor-in-Chief for the journal Expert Opinion on Drug Delivery. Also, he is an editor for the journals, Pharmaceutical Research and the Journal of Ocular Pharmacology and Therapeutics. Dr. Kompella is a recipient of the Distinguished Scientist Award (University of Nebraska Medical Center), Distinguished Teacher Award (University of Nebraska Medical Center), and Dean's Mentoring Award (University of Colorado Anschutz Medical Campus). He is also a recipient of the ARVO Foundation for Eye

Research/Pfizer Ophthalmics/Carl Camras Translational Research Award in Ophthalmology. Dr. Kompella obtained his Ph.D. in Pharmaceutical Sciences from the University of Southern California.

Ramesh Kumar, Ph.D., (age 63) has served as a member of Ocugen's board of directors since June 2019. He is a co-founder of Onconova Therapeutics, Inc. and served as its President and Chief Executive Officer, and a member of its Board of Directors from 1998 to February 2019. Prior to thereto, Dr. Kumar held positions in research and development or management at Princeton University, Bristol-Myers Squibb Company, or Bristol-Myers Squibb, DNX Corp. (later Nextran Corp., a subsidiary of Baxter International Inc.) and Kimeragen, Inc. (later ValiGen Inc.), a genomics company, where he was President of the Genomics and Transgenics Division. Dr. Kumar received his Ph.D. in Molecular Biology from the University of Illinois, Chicago, and trained at the National Cancer Institute. Additionally, Dr. Kumar received his B.Sc. and M.Sc., both with honors, in Microbiology from Panjab University.

Frank Leo, (age 63) has served as a member of Ocugen's board of directors since February 2017. Since January 2008, Mr. Leo has served as a consultant, specializing in the pharmaceutical industry and private equity with over 30 years of experience in healthcare and pharmaceuticals. From 1999 to 2004, Mr. Leo served as President and Group President of Sterile Technologies and Life Sciences at Cardinal Health Inc. He joined Cardinal Health following its acquisition of the sterile pharmaceutical contract manufacturing company Automatic Liquid Packing (ALP), where he held various senior level positions including Chief Operating Officer during his 16-year career. At Cardinal Health he oversaw the growth of the biotechnology and life sciences group, which was later spun out to form Catalent Inc. Mr. Leo left Cardinal Health in 2004 but continued to serve as a retained advisor through 2005. Mr. Leo joined Morton Grove Pharmaceuticals where he served as CEO from 2006 to 2007, overseeing its sale for its Private Equity owners in 2007. Mr. Leo served as a Board Member of Rx Elite, Monogen, GeneraMedix, and Iogenetics and Capsugel. Mr. Leo is a serial Entrepreneur having been involved in business value creation and start-ups in the Sterile Drug, Biotechnology and Healthcare technology space.

Manish Potti, (age 33) has served as a member of Ocugen's board of directors since November 2016. Mr. Potti is Co-Founder and President of Innogenix Pharma, a generic pharmaceutical R&D and manufacturing company focused on solid oral dosage formulations, based in Long Island, New York since June 2016. He was previously Director of Business Development at Epic Pharma, a generic pharmaceutical company and CMO, from January 2015 to May 2016. While at Epic Pharma, he led the M&A sale process in which the company was sold to Humanwell Healthcare of China in 2016 along with serving on its board of directors. Prior to his employment with Epic Pharma, Mr. Potti worked as an analyst at One William Street Capital from August 2010 to January 2014. Mr. Potti is actively involved in middle market private equity and venture capital investing, in his capacity as CIO for a multi-family office. Areas of investment focus include: Generic pharmaceutical injectable, ophthalmic, topical, liquid, nasal, and solid oral dosage forms; Biotech from startup to public equity; Tech and consumer product industries. Prior to his experience in pharmaceuticals, Mr. Potti spent several years in finance as an analyst and trader, working in investment banking and hedge funds. He has experience investing across a variety of asset classes and strategies. Manish hold a Bachelors of Science in Cellular and Molecular Biology from Johns Hopkins University, and a Masters Degree in Financial Engineering from New York University.

Suha Taspolatoglu, M.D., (age 57) has served as a member of Ocugen's board of directors since June 2017. Since 2013, Dr. Taspolatoglu has been working as the chief executive officer of the 105 years old Abdi Ibrahim Ilac Sanayi ve Ticaret A.S., a market leader of the pharmaceutical sector in Turkey for nearly two decades. Dr. Taspolatoglu joined Abdi Ibrahim as the head of sales and marketing division in 2001 and became managing director of sales and marketing division six short years later. Later on,

between 2009 to 2013, he worked as the General Manager of Roche Turkey. Dr. Taspolatoglu, is a graduate of Ankara University Faculty of Medicine and served three years as a physician in the Ministry of Health. Dr. Taspolatoglu, is a graduate of Ankara University Faculty of Medicine and served as a Physician in the Ministry of Health between 1986 and 1989.

Junge (John) Zhang, Ph.D., (age 52) has served as a member of Ocugen's board of directors since May 2015. Dr. Zhang is the Founder, President, and CEO of Biopeptek, a company that specializes in the research and development of peptides, since its founding in October, 2010. Prior to founding Biopeptek, Dr. Zhang was with the Janssen Pharmaceutical division of Johnson & Johnson from October 2002 to April 2011. During his tenure at Johnson & Johnson, Dr. Zhang held numerous scientific and management positions and led multiple development projects related to three antibody drugs that received FDA approval. Before joining Johnson & Johnson, Dr. Zhang was a Senior Chemist at Eisai USA from December 1997 to October 2002. Dr. Zhang earned a Ph.D. in analytical chemistry from Drexel University, a M.S. in chemistry from University of Louisiana, and a B.S. in material science from Wuhan University of Technology in China.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

The information set forth in Item 3.03 of this Current Report on Form 8-K is incorporated by reference into this Item 5.03.

The Amended and Restated Bylaws of the Company reflecting the Name Change are filed herewith as Exhibit 3.3 and incorporated herein by reference.

Item 8.01 Other Events.

Ocugen Private Placement Transaction

On September 27, 2019, the Company and Ocugen completed a previously announced private placement transaction with certain accredited investors for an aggregate purchase price of approximately $25.0 million (subject to the offset amount described below) whereby, among other things, Ocugen issued to the investors shares of Ocugen common stock immediately prior to the Merger (the "Pre-Merger Financing"), pursuant that certain Securities Purchase Agreement (the "Purchase Agreement"), made and entered into as of June 13, 2019, by and among the Company, Ocugen and the institutional investors thereto (the "Investors"), and amended by those certain Amendment Agreements, made and entered into as of June 28, 2019.

At the closing of the Pre-Merger Financing, (i) Ocugen issued and sold to the Investors shares of Ocugen's common stock (the "Initial Shares" and, as converted pursuant to the exchange rate in the Merger into the right to receive approximately 2.2 million shares of Common Stock, the "Converted Initial Shares"), and (ii) Ocugen deposited additional shares of Ocugen's common stock (as converted pursuant to the exchange rate in the Merger, approximately 2.2 million shares of Common Stock) into escrow for the benefit of the Investors if 80% of the volume-weighted average trading price of a share of the Common Stock as quoted on the Nasdaq Capital Market for the first three trading days immediately following the closing date of the Pre-Merger Financing is lower than the price paid by the Investors for the Initial Shares (the "Additional Shares" and together with the Initial Shares the "Pre-Merger Financing Shares"). In addition, under the Purchase Agreement the Company has agreed to issue on the fifth trading day following the consummation of the Merger warrants representing the right to acquire Common Stock under certain terms and conditions as described in the Registration Statement.

Repayment of Ocugen Bridge Loans

As previously disclosed, Ocugen entered into bridge loans under a Securities Purchase Agreement, dated May 21, 2019, with certain of the Investors, as amended (the "Bridge Loans"), to advance $4.6 million of the $25.0 million aggregate purchase price under the Purchase Agreement. Pursuant to the Bridge Loans, immediately prior to the effective time of the Merger Agreement, Ocugen offset $5.29 million due under the Bridge Loans from the remaining amount to be received from the Investors under the Purchase Agreement, and the Bridge Loans were repaid and cancelled.

Item 9.01. Financial Statements and Exhibits.

(a) ***Financial Statements of Business Acquired***

The required financial statements for the transaction described in Item 2.01 of this Current Report on Form 8-K will be filed as soon as practicable and no later than the required filing date.

(b) ***Pro Forma Financial Information***

The required pro forma financial information for the transaction described in Item 2.01 of this Current Report on Form 8-K will be filed as soon as practicable and no later than the required filing date.

(d) ***Exhibits***

Exhibit No.	Exhibit
2.1	Agreement and Plan of Merger and Reorganization, dated April 5, 2019, by and among the Company, Ocugen, Inc. and Restore Merger Sub, Inc. (filed as Exhibit 2.1 to the Company's Current Report on Form 8-K as filed on April 8, 2019, and incorporated herein by reference)
2.2	Consent and Amendment No. 1 to Agreement and Plan of Merger and Reorganization, dated June 13, 2019, by and among the Company, Ocugen, Inc. and Restore Merger Sub, Inc. (filed as Exhibit 2.1 to the Company's Current Report on Form 8-K as filed on June 14, 2019, and incorporated herein by reference)
3.1	Amendment to Sixth Amended and Restated Certificate of Incorporation of the Company related to the Reverse Stock Split and the Authorized Share Increase
3.2	Amendment to Sixth Amended and Restated Certificate of Incorporation of the Company related to the Name Change
3.3	Amended and Restated Bylaws of the Company
10.1	Amendment No. 1 to Asset Purchase Agreement, dated September 26, 2019, by and between the Company and Medavate Corp.
99.1	Press Release re Merger, dated September 30, 2019

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: October 1, 2019

OCUGEN, INC.

By: /s/ Shankar Musunuri
Shankar Musunuri
Chief Executive Officer and Chairman

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "HISTOGENICS CORPORATION", FILED IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF SEPTEMBER, A.D. 2019, AT 8:18 O`CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

4190350 8100
SR# 20197259455

Authentication: 203680340
Date: 09-27-19

CERTIFICATE OF AMENDMENT
OF THE SIXTH AMENDED AND RESTATED CERTIFICATE OF
INCORPORATION
OF
IHSTOGENICS CORPORATION

Histogenics Corporation (the **"Corporation"),** a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the **"General Corporation Law"):**

DOES HEREBY CERTIFY:

FIRST: That the name of this Corporation is Histogenics Corporation. The original certificate of incorporation of this Corporation was originally filed with the office of the Secretary of State of the State of Delaware on July 14, 2006 under the name Histogenics Corporation.

SECOND: That the Board of Directors duly adopted resolutions proposing to amend the Sixth Amended and Restated Certificate of Incorporation (the **"Restated Certificate")** of this Corporation, declaring said amendment to be advisable and in the best interests of this Corporation and its stockholders, and authorizing the appropriate officers of this Corporation to solicit the consent of the stockholders therefor, which resolutions setting forth the proposed amendments are as follows:

RESOLVED, that Article IV of the Restated Certificate be amended by adding a new paragraph immediately prior to Paragraph A which reads as follows:

"Effective as of immediately upon the filing of this Certificate of Amendment to the Sixth Amended and Restated Certificate of Incorporation with the office of the Secretary of State of the State of Delaware (the **"Effective Time"),** each 60 issued shares of each series of Preferred Stock and Common Stock shall be combined and changed into 1 share of such series of Preferred Stock or Common Stock, as applicable (the **"Reverse Stock Split"),** which shares shall be fully paid and nonassessable. The Corporation shall not issue to any holder a fractional share of Common Stock on account of the Reverse Stock Split. Rather, any fractional share of Common Stock resulting from such change shall be rounded upward to the nearest whole share of Common Stock. Share interests issued due to rounding are given solely to save the expense and inconvenience of issuing fractional shares of Common Stock and do not

represent separately bargained for consideration. Such Reverse Stock Split shall occur whether or not certificates representing any stockholder's shares held prior to the Reverse Stock Split are surrendered for cancellation."

RESOLVED, that Article IV of the Restated Certificate be amended by amending and restating Paragraph A in its entirety as follows:

"A. The total number of shares of all classes of stock which the Corporation shall have authority to issue is two hundred ten million (210,000,000), consisting of two hundred million (200,000,000) shares of Common Stock, par value $0.01 per share (the "Common Stock"), and ten million (10,000,000) shares of Preferred Stock, par value $0.01 per share (the "Preferred Stock")."

THIRD: The foregoing amendment was approved by the holders of the requisite number of shares of this Corporation in accordance with Sections 211 and 242 of the General Corporation Law.

FOURTH: Other than as set forth in this Certificate of Amendment, the Sixth Amended and Restated Certificate of Incorporation shall remain in full force and effect, without modification, amendment or change.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed this 27th day of September, 2019.

HISTOGENICS CORPORATION

By: /s/ Adam Gridley
Adam Gridley, President

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF CORRECTION OF "HISTOGENICS CORPORATION", FILED IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF SEPTEMBER, A.D. 2019, AT 1:20 O`CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

4190350 8100
SR# 20197268809

Authentication: 203684429
Date: 09-27-19

CERTIFICATE OF CORRECTION
TO
CERTIFICATE OF AMENDMENT
OF
SIXTH AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
HISTOGENICS CORPORATION

Histogenics Corporation, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "DGCL") DOES HEREBY CERTIFY:

1. The name of the corporation is Histogenics Corporation (the "Corporation").

2. That a Certificate of Amendment of the Sixth Amended and Restated Certificate of Incorporation (the Certificate of Amendment") was filed with the Secretary of State of Delaware on September 27, 2019, and that said Certificate of Amendment requires correction as permitted by Section 103 of the DGCL.

3. The inaccuracy or defect of said Certificate of Amendment is: The treatment of a fractional share of Common Stock resulting from the Reverse Split contemplated by said Certificate of Amendment.

4. The new paragraph added to Article IV of the Sixth Amended and Restated Certificate of Incorporation pursuant to the Certificate of Amendment is corrected to read as follows:

> "Effective as of immediately upon the filing of this Certificate of Amendment to the Sixth Amended and Restated Certificate of Incorporation with the office of the Secretary of State of the State of Delaware (the "Effective Time"), each 60 issued shares of each series of Preferred Stock and Common Stock shall be combined and changed into 1 share of such series of Preferred Stock or Common Stock, as applicable (the "Reverse Stock Split"), which shares shall be fully paid and nonassessable. The Corporation shall not issue to any holder (after aggregating all fractions of a share to which such stockholder would otherwise be entitled) a fractional share of Common Stock on account of the Reverse Stock Split. Rather, any fractional share of Common Stock resulting from such change shall be rounded downward to the nearest whole share of Common Stock. Each holder who would otherwise be entitled to a fraction of a share of Common Stock upon the Reverse Stock Split (after aggregating all fractions of a share to which such stockholder would otherwise be entitled) shall, in lieu thereof, be entitled to receive a cash payment in an amount equal to the fraction to which the stockholder would otherwise be entitled multiplied by the closing price of the Corporation's Common Stock as

reported on The Nasdaq Capital Market on the date of the filing of this Certificate of Amendment to the Sixth Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware. Such Reverse Stock Split shall occur whether or not certificates representing any stockholder's shares held prior to the Reverse Stock Split are surrendered for cancellation."

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Correction on the 27th day of September, 2019.

/s/ Adam Gridley

Adam Gridley, President

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "HISTOGENICS CORPORATION", CHANGING ITS NAME FROM "HISTOGENICS CORPORATION" TO "OCUGEN, INC.", FILED IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF SEPTEMBER, A.D. 2019, AT 3:58 O`CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

4190350 8100
SR# 20197274316

Authentication: 203685364
Date: 09-27-19

CERTIFICATE OF AMENDMENT
OF THE SIXTH AMENDED AND RESTATED CERTIFICATE OF
INCORPORATION
OF
HISTOGENICS CORPORATION

Histogenics Corporation (the **"Corporation"),** a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the **"General Corporation Law"):**

DOES HEREBY CERTIFY:

FIRST: That the name of this Corporation is Histogenics Corporation. The original certificate of incorporation of this Corporation was originally filed with the office of the Secretary of State of the State of Delaware on July 14, 2006 under the name Histogenics Corporation.

SECOND: That the Board of Directors duly adopted resolutions proposing to amend the Sixth Amended and Restated Certificate of Incorporation (the **"Restated Certificate")** of this Corporation, declaring said amendment to be advisable and in the best interests of this Corporation and its stockholders, and authorizing the appropriate officers of this Corporation to solicit the consent of the stockholders therefor, which resolutions setting forth the proposed amendments are as follows:

RESOLVED, that Article I of the Restated Certificate be amended and restated in its entirety as follows:

"The name of this corporation is Ocugen, Inc. (the **"Corporation"**)."

THIRD: The foregoing amendment was approved by the holders of the requisite number of shares of this Corporation in accordance with Sections 211 and 242 of the General Corporation Law.

FOURTH: Other than as set forth in this Certificate of Amendment, the Sixth Amended and Restated Certificate of Incorporation shall remain in full force and effect, without modification, amendment or change.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed this **27** day of **September 2019**

HISTOGENICS CORPORATION

By: /s/ Shankar Musunuri
Shankar Musuriuri, Chief Executive Officer

Exhibit 3.3

AMENDED AND RESTATED

BYLAWS OF

OCUGEN, INC.

A DELAWARE CORPORATION

EFFECTIVE: DECEMBER 8, 2014

TABLE OF CONTENTS

ARTICLE I

OFFICES AND RECORDS

Section 1.1 Delaware Office. The registered office of the Corporation in the State of Delaware shall be located in the City of Wilmington, County of New Castle.

Section 1.2 Other Offices. The Corporation may have such other offices, either within or without the State of Delaware, as the Board of Directors may designate or as the business of the Corporation may from time to time require.

Section 1.3 Books and Records. The books and records of the Corporation may be kept at the Corporation's headquarters in Waltham, Massachusetts or at such other locations outside the State of Delaware as may from time to time be designated by the Board of Directors.

ARTICLE II

STOCKHOLDERS

Section 2.1 Annual Meeting. The annual meeting of the stockholders of the Corporation shall be held at such date, place and/or time as may be fixed by resolution of the Board of Directors.

Section 2.2 Special Meeting. Special meetings of stockholders of the Corporation may be called only by the Chairman of the Board or the President or by the Board of Directors acting pursuant to a resolution adopted by a majority of the Whole Board. For purposes of these Amended and Restated Bylaws, the term "Whole Board" shall mean the total number of authorized directors whether or not there exist any vacancies in previously authorized directorships.

Section 2.3 Place of Meeting. The Board of Directors may designate the place of meeting for any meeting of the stockholders or the means of remote communications by which any meeting shall be held. If no designation is made by the Board of Directors, the place of meeting shall be the principal office of the Corporation.

Section 2.4 Notice of Meeting. Except as otherwise required by law, written, printed or electronic notice stating the place, if any, date and time of the meeting, the means of remote communications, if any, by which the stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and in the case of a special meeting, the purposes for which the meeting is called shall be prepared and delivered by the Corporation not less than ten (10) days nor more than sixty (60) days before the date of the meeting, either personally, by mail, or in the case of stockholders who have consented to such delivery, by electronic transmission (as such term is defined in the Delaware General Corporation Law), to each stockholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail with postage thereon prepaid, addressed to the stockholder at his address as it appears on the stock transfer books of the Corporation. Notice given by electronic transmission shall be effective (A) if by facsimile, when faxed to a number where the stockholder has consented to receive notice; (B) if by electronic mail, when mailed

electronically to an electronic mail address at which the stockholder has consented to receive such notice; (C) if by posting on an electronic network together with a separate notice of such posting, upon the later to occur of (1) the posting or (2) the giving of separate notice of the posting; or (D) if by other form of electronic communication, when directed to the stockholder in the manner consented to by the stockholder. Meetings may be held without notice if all stockholders entitled to vote are present (except as otherwise provided by law), or if notice is waived by those not present. Any previously scheduled meeting of the stockholders may be postponed and (unless the Corporation's Sixth Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation") otherwise provides) any special meeting of the stockholders may be cancelled, by resolution of the Board of Directors upon public notice given prior to the time previously scheduled for such meeting of stockholders.

Section 2.5 Quorum and Adjournment. Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the voting power of the outstanding shares of the Corporation entitled to vote generally in the election of directors (the "Voting Stock"), represented in person or by proxy, shall constitute a quorum at a meeting of stockholders, except that when specified business is to be voted on by a class or series voting separately as a class or series, the holders of a majority of the voting power of the shares of such class or series shall constitute a quorum for the transaction of such business for the purposes of taking action on such business. If a quorum shall fail to attend any meeting, the chairman of the meeting may adjourn the meeting to another place, if any, date or time. No notice of an adjourned meeting need be given if the time, place, if any, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; provided such adjournment is for not more than thirty (30) days and further provided that no new record date is fixed for the adjourned meeting.

Section 2.6 Proxies. At all meetings of stockholders, a stockholder may vote by proxy executed in writing by the stockholder or as may be permitted by law, or by his duly authorized attorney-in-fact. Such proxy must be filed with the Secretary of the Corporation or his representative, or otherwise delivered telephonically or electronically as set forth in the applicable proxy statement, at or before the time of the meeting.

Section 2.7 Notice of Stockholder Business and Nominations.

A. Nominations of persons for election to the Board of Directors and the proposal of business to be transacted by the stockholders may be made at an annual meeting of stockholders (1) pursuant to the Corporation's notice with respect to such meeting, (2) by or at the direction of the Board of Directors or (3) by any stockholder of record of the Corporation who was a stockholder of record at the time of the giving of the notice provided for in the following paragraph, who is entitled to vote at the meeting and who has complied with the notice procedures set forth in this Section 2.7.

B. For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to paragraph (A)(3) of this Section 2.7, (1) the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation, (2) such business must be a proper matter for stockholder action under the Delaware General

Corporation Law, (3) if the stockholder, or the beneficial owner on whose behalf any such proposal or nomination is made, has provided the Corporation with a Solicitation Notice, as that term is defined in subclause (c)(iii) of this paragraph, such stockholder or beneficial owner must, in the case of a proposal, have delivered prior to the meeting a proxy statement and form of proxy to holders of at least the percentage of the Corporation's voting shares required under applicable law to carry any such proposal, or, in the case of a nomination or nominations, have delivered prior to the meeting a proxy statement and form of proxy to holders of a percentage of the Corporation's voting shares reasonably believed by such stockholder or beneficial holder to be sufficient to elect the nominee or nominees proposed to be nominated by such stockholder, and must, in either case, have included in such materials the Solicitation Notice and (4) if no Solicitation Notice relating thereto has been timely provided pursuant to this section, the stockholder or beneficial owner proposing such business or nomination must not have solicited a number of proxies sufficient to have required the delivery of such a Solicitation Notice under this section. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not less than forty-five (45) or more than seventy-five (75) days prior to the first anniversary (the "Anniversary") of the date on which the Corporation first mailed its proxy materials for the preceding year's annual meeting of stockholders; provided, however, that if no proxy materials were mailed by the Corporation in connection with the preceding year's annual meeting, or if the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not later than the close of business on the later of (x) the 90th day prior to such annual meeting or (y) the 10th day following the day on which public announcement of the date of such meeting is first made. Such stockholder's notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person as would be required to be disclosed in solicitations of proxies for the election of such nominees as directors pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and such person's written consent to serve as a director if elected; (b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of such business, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (ii) the class and number of shares of the Corporation that are owned beneficially and of record by such stockholder and such beneficial owner, and (iii) whether either such stockholder or beneficial owner intends to deliver a proxy statement and form of proxy to holders of, in the case of a proposal, at least the percentage of the Corporation's voting shares required under applicable law to carry the proposal or, in the case of a nomination or nominations, a sufficient number of holders of the Corporation's voting shares to elect such nominee or nominees (an affirmative statement of such intent, a "Solicitation Notice").

C. Notwithstanding anything in the second sentence of paragraph (B) of this Section 2.7 to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the Corporation at least fifty-five (55) days prior to the Anniversary, a stockholder's notice required by this Bylaw shall also be considered timely, but only with respect to nominees for any new positions created

by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

D. Only persons nominated in accordance with the procedures set forth in this Section 2.7 shall be eligible to serve as directors and only such business shall be conducted at an annual meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 2.7. The chair of the meeting shall have the power and the duty to determine whether a nomination or any business proposed to be brought before the meeting has been made in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, to declare that such defective proposed business or nomination shall not be presented for stockholder action at the meeting and shall be disregarded.

E. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (1) by or at the direction of the Board of Directors or (2) by any stockholder of record of the Corporation who is a stockholder of record at the time of giving of notice provided for in this paragraph, who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 2.7. Nominations by stockholders of persons for election to the Board of Directors may be made at such a special meeting of stockholders if the stockholder's notice required by paragraph (B) of this Section 2.7 shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the later of the 90th day prior to such special meeting or the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting.

F. For purposes of this Section 2.7, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or a comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

G. Notwithstanding the foregoing provisions of this Section 2.7, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to matters set forth in this Section 2.7. Nothing in this Section 2.7 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

Section 2.8 Procedure for Election of Directors. Election of directors at all meetings of the stockholders at which directors are to be elected shall be by written ballot, and, except as otherwise set forth in the Certificate of Incorporation with respect to the right of the holders of any series of Preferred Stock or any other series or class of stock to elect additional directors under specified circumstances, a plurality of the votes cast thereat shall elect directors. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, all matters other than the election of directors submitted to the stockholders at any meeting shall be decided

by the affirmative vote of a majority of the voting power of the outstanding Voting Stock present in person or represented by proxy at the meeting and entitled to vote thereon.

Section 2.9 Inspectors of Elections. The Board of Directors by resolution may, and to the extent required by law, shall appoint one or more inspectors, which inspector or inspectors may include individuals who serve the Corporation in other capacities, including, without limitation, as officers, employees, agents or representatives of the Corporation, to act at the meeting and make a written report thereof. One or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed to act, or if all inspectors or alternates who have been appointed are unable to act, at a meeting of stockholders, the chairman of the meeting may, and to the extent required by law, shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall have the duties prescribed by the Delaware General Corporation Law.

Section 2.10 Conduct of Meetings.

A. The President and Chief Executive Officer shall preside at all meetings of the stockholders. In the absence of the President and Chief Executive Officer, the Chairman of the Board shall preside at a meeting of the stockholders. In the absence of both the President and Chief Executive Officer and the Chairman of the Board, the Secretary shall preside at a meeting of the stockholders. In the anticipated absence of all officers designated to preside over the meetings of stockholders, the Board of Directors may designate an individual to preside over a meeting of the stockholders.

B. The chairman of the meeting shall fix and announce at the meeting the date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting. The chairman shall have the power to adjourn the meeting to another place, if any, date and time.

C. The Board of Directors may, to the extent not prohibited by law, adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the chairman of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may to the extent not prohibited by law include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof and (v) limitations on the time allotted to questions or comments by participants. Unless, and to the extent, determined by the Board of Directors or the chairman of the meeting, meetings

of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

Section 2.11 No Consent of Stockholders in Lieu of Meeting. Subject to the rights of the holders of any series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

ARTICLE III

BOARD OF DIRECTORS

Section 3.1 General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by the Certificate of Incorporation or by these Bylaws, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

Section 3.2 Number, Tenure and Qualifications. Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the number of directors shall be fixed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by a majority of the Whole Board. The directors, other than those who may be elected by the holders of any series of Preferred Stock under specified circumstances, shall be divided into three classes pursuant to the Certificate of Incorporation. At each annual meeting of stockholders, directors elected to succeed those directors whose terms expire shall be elected for a term of office to expire at the third succeeding annual meeting of stockholders after their election. The foregoing notwithstanding, each director shall serve until such director's successor shall have been duly elected and qualified, or until such director's prior death, resignation, retirement, disqualification or other removal. The Board of Directors is authorized to assign members of the Board of Directors already in office to such classes as it may determine at the time the classification of the Board of Directors becomes effective.

Section 3.3 Regular Meetings. The Board of Directors may, by resolution, provide the time and place for the holding of regular meetings of the Board of Directors. A notice of each regular meeting shall not be required.

Section 3.4 Special Meetings. Special meetings of the Board of Directors shall be called at the request of the Chairman of the Board, the Chief Executive Officer or a majority of the Board of Directors. The person or persons authorized to call special meetings of the Board of Directors may fix the place and time of the meetings, and the writing or transmission shall be filed with the minutes of proceedings of the Board of Directors.

Section 3.5 Action By Unanimous Consent of Directors. The Board of Directors may take action without the necessity of a meeting by unanimous consent of directors. Such consent may be in writing or given by electronic transmission, as such term is defined in the Delaware General Corporation Law.

Section 3.6 Notice. Notice of any special meeting shall be given to each director at his business or residence in writing, or by telegram, facsimile transmission, telephone communication or electronic transmission (provided, with respect to electronic transmission, that the director has consented to receive the form of transmission at the address to which it is directed). If mailed, such notice shall be deemed adequately delivered when deposited in the United States mails so addressed, with postage thereon prepaid, at least five (5) days before such meeting. If by telegram, such notice shall be deemed adequately delivered when the telegram is delivered to the telegraph company at least twenty-four (24) hours before such meeting. If by facsimile transmission or other electronic transmission, such notice shall be transmitted at least twenty-four (24) hours before such meeting. If by telephone, the notice shall be given at least twelve (12) hours prior to the time set for the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice of such meeting, except for amendments to these Bylaws as provided under Section 8.1 of Article VIII hereof. A meeting may be held at any time without notice if all the directors are present (except as otherwise provided by law) or if those not present waive notice of the meeting in writing or by electronic transmission, either before or after such meeting.

Section 3.7 Conference Telephone Meetings. Members of the Board of Directors, or any committee thereof, may participate in a meeting of the Board of Directors or such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

Section 3.8 Quorum. A whole number of directors equal to at least a majority of the Whole Board shall constitute a quorum for the transaction of business, but if at any meeting of the Board of Directors there shall be less than a quorum present, a majority of the directors present may adjourn the meeting from time to time without further notice. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3.9 Vacancies. Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause shall, unless otherwise provided by law or by resolution of the Board of Directors, be filled only by a majority vote of the directors then in office, though less than a quorum (and not by stockholders), and directors so chosen shall hold office for a term expiring at the annual meeting of stockholders at which the term of office of the class to which they have been chosen expires or until such director's successor has been duly elected and qualified. No decrease in the authorized number of directors shall shorten the term of any incumbent director.

Section 3.10 Committees.

A. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification

of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent permitted by law and to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; provided, however, that no committee shall have power or authority in reference to the following matters: (1) approving, adopting or recommending to stockholders any action or matter required by law to be submitted to stockholders for approval or (2) adopting, amending or repealing any bylaw.

B. Unless the Board of Directors otherwise provides, each committee designated by the Board of Directors may make, alter and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to these Bylaws.

Section 3.11 Removal. Subject to the rights of the holders of any series of Preferred Stock then outstanding, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of at least two-thirds of the voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

ARTICLE IV

OFFICERS

Section 4.1 Elected Officers. The elected officers of the Corporation shall be a Chairman of the Board, a President, a Secretary, a Treasurer, and such other officers as the Board of Directors from time to time may deem proper. The Chairman of the Board shall be chosen from the directors. All officers chosen by the Board of Directors shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article IV. Such officers shall also have powers and duties as from time to time may be conferred by the Board of Directors or by any committee thereof.

Section 4.2 Election and Term of Office. The elected officers of the Corporation shall be elected annually by the Board of Directors at the regular meeting of the Board of Directors held after each annual meeting of the stockholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Subject to Section 4.7 of these Bylaws, each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign.

Section 4.3 Chairman of the Board. The Chairman of the Board shall preside at all meetings of the Board of Directors.

Section 4.4 President and Chief Executive Officer. The President and Chief Executive Officer shall be the general manager of the Corporation, subject to the control of the

Board of Directors, and as such shall, subject to Section 2.10(A) hereof, preside at all meetings of stockholders, shall have general supervision of the affairs of the Corporation, shall sign or countersign or authorize another officer to sign all certificates, contracts, and other instruments of the Corporation as authorized by the Board of Directors, shall make reports to the Board of Directors and stockholders, and shall perform all such other duties as are incident to such office or are properly required by the Board of Directors. If the Board of Directors creates the office of Chief Executive Officer as a separate office from President, the President shall be the chief operating officer of the corporation and shall be subject to the general supervision, direction, and control of the Chief Executive Officer unless the Board of Directors provides otherwise.

Section 4.5 Secretary. The Secretary shall give, or cause to be given, notice of all meetings of stockholders and directors and all other notices required by law or by these Bylaws, and in case of his absence or refusal or neglect so to do, any such notice may be given by any person thereunto directed by the Chairman of the Board or the President, or by the Board of Directors, upon whose request the meeting is called as provided in these Bylaws. The Secretary shall record all the proceedings of the meetings of the Board of Directors, any committees thereof and the stockholders of the Corporation in a book to be kept for that purpose, and shall perform such other duties as may be assigned to the Secretary by the Board of Directors, the Chairman of the Board or the President. The Secretary shall have custody of the seal of the Corporation and shall affix the same to all instruments requiring it, when authorized by the Board of Directors, the Chairman of the Board or the President, and attest to the same.

Section 4.6 Treasurer. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate receipts and disbursements in books belonging to the Corporation. The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the Corporation in such depositaries as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors the Chairman of the Board, or the President, taking proper vouchers for such disbursements. The Treasurer shall render to the Chairman of the Board, the President and the Board of Directors, whenever requested, an account of all his transactions as Treasurer and of the financial condition of the Corporation. If required by the Board of Directors, the Treasurer shall give the Corporation a bond for the faithful discharge of his duties in such amount and with such surety as the Board of Directors shall prescribe.

Section 4.7 Removal. Any officer elected by the Board of Directors may be removed by the Board of Directors at any time, with or without cause. No elected officer shall have any contractual rights against the Corporation for compensation by virtue of such election beyond the date of the election of his successor, his death, his resignation or his removal, whichever event shall first occur, except as otherwise provided in an employment contract or an employee plan.

Section 4.8 Vacancies. A newly created office and a vacancy in any office because of death, resignation, or removal may be filled by the Board of Directors for the unexpired portion of the term at any meeting of the Board of Directors.

ARTICLE V

STOCK CERTIFICATES AND TRANSFERS

Section 5.1 Stock Certificates and Transfers.

A. Unless the Board of Directors has determined by resolution that some or all of any or all classes or series of stock shall be uncertificated shares, the interest of each stockholder of the Corporation shall be evidenced by certificates for shares of stock in such form as the appropriate officers of the Corporation may from time to time prescribe. The shares of the stock of the Corporation shall be transferred on the books of the Corporation by the holder thereof in person or by his attorney, upon surrender for cancellation of certificates for the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, and with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require.

B. Every holder of stock represented by certificates shall be entitled to have a certificate signed, countersigned and registered in such manner as the Board of Directors may by resolution prescribe, which resolution may permit all or any of the signatures on such certificates to be in facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

ARTICLE VI

INDEMNIFICATION

Section 6.1 Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, trustee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (hereinafter an "indemnitee"), where the basis of such proceeding is alleged action in an official capacity as a director, officer, employee, trustee or agent or in any other capacity while serving as a director, officer, trustee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than permitted prior thereto), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a director, officer, employee, trustee or agent and shall inure to the benefit of the indemnitee's heirs, executors and administrators; provided, however, that, except as provided in Section 6.3 hereof with respect to proceedings to enforce rights to indemnification, the

Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation.

Section 6.2 Right to Advancement of Expenses. The right to indemnification conferred in Section 6.1 shall include the right to be paid by the Corporation the expenses (including attorney's fees) incurred in defending any proceeding for which such right to indemnification is applicable in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that, if the Delaware General Corporation Law requires, an advancement of expenses incurred by an indemnitee in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnitee is not entitled to be indemnified for such expenses under this Section or otherwise.

Section 6.3 Right of Indemnitee to Bring Suit. The rights to indemnification and to the advancement of expenses conferred in Section 6.1 and Section 6.2, respectively, shall be contract rights. If a claim under Section 6.1 or Section 6.2 is not paid in full by the Corporation within sixty days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty days, the indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (A) any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (B) in any suit by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking the Corporation shall be entitled to recover such expenses upon a final adjudication that, the indemnitee has not met any applicable standard for indemnification set forth in the Delaware General Corporation Law. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Section or otherwise shall be on the Corporation.

Section 6.4 Non-Exclusivity of Rights. The rights to indemnification and to the advancement of expenses conferred in this Article VI shall not be exclusive of any other right

which any person may have or hereafter acquire under the Certificate of Incorporation, these Amended and Restated Bylaws, or any statute, agreement, vote of stockholders or disinterested directors or otherwise.

Section 6.5 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

Section 6.6 Amendment of Rights. Any amendment, alteration or repeal of this Article VI that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment or repeal.

Section 6.7 Indemnification of Employees and Agents of the Corporation. The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification, and to the advancement of expenses, to any employee or agent of the Corporation to the fullest extent of the provisions of this Section with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 7.1 Fiscal Year. The fiscal year of the Corporation shall begin on the first day of January and end on the thirty-first day of December of each year.

Section 7.2 Dividends. The Board of Directors may from time to time declare, and the Corporation may pay, dividends on its outstanding shares in the manner and upon the terms and conditions provided by law and its Certificate of Incorporation.

Section 7.3 Seal. The corporate seal shall have inscribed the name of the Corporation thereon and shall be in such form as may be approved from time to time by the Board of Directors.

Section 7.4 Waiver of Notice. Whenever any notice is required to be given to any stockholder or director of the Corporation under the provisions of the Delaware General Corporation Law, the Certificate of Incorporation or the Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, or a waiver by electronic transmission, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the stockholders or the Board of Directors need be specified in any waiver of notice of such meeting. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.

Section 7.5 Audits. The accounts, books and records of the Corporation shall be audited upon the conclusion of each fiscal year by an independent certified public accountant selected by the Board of Directors, and it shall be the duty of the Board of Directors to cause such audit to be made annually.

Section 7.6 Resignations. Any director or any officer, whether elected or appointed, may resign at any time by serving written notice of such resignation on the Chairman of the Board, the Chief Executive Officer or the Secretary, or by submitting such resignation by electronic transmission (as such term is defined in the Delaware General Corporation Law), and such resignation shall be deemed to be effective as of the close of business on the date said notice is received by the Chairman of the Board, the Chief Executive Officer, or the Secretary or at such later date as is stated therein. No formal action shall be required of the Board of Directors or the stockholders to make any such resignation effective.

Section 7.7 Contracts. Except as otherwise required by law, the Certificate of Incorporation or these Bylaws, any contracts or other instruments may be executed and delivered in the name and on the behalf of the Corporation by such officer or officers of the Corporation as the Board of Directors may from time to time direct. Such authority may be general or confined to specific instances as the Board of Directors may determine. The Chairman of the Board, the Chief Executive Officer, the President or any Vice President may execute bonds, contracts, deeds, leases and other instruments to be made or executed for or on behalf of the Corporation. Subject to any restrictions imposed by the Board of Directors or the Chairman of the Board, the Chief Executive Officer, the President or any Vice President of the Corporation may delegate contractual powers to others under his jurisdiction, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

Section 7.8 Proxies. Unless otherwise provided by resolution adopted by the Board of Directors, the Chairman of the Board, the Chief Executive Officer, the President or any Vice President may from time to time appoint any attorney or attorneys or agent or agents of the Corporation, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities in any other corporation or other entity, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock and other securities of such other corporation or other entity, or to consent in writing, in the name of the Corporation as such holder, to any action by such other corporation or other entity, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal or otherwise, all such written proxies or other instruments as he may deem necessary or proper in the premises.

ARTICLE VIII

AMENDMENTS

Section 8.1 Amendments. Subject to the provisions of the Certificate of Incorporation (including the rights of the holders of any series of Preferred Stock then outstanding), these Bylaws may be adopted, amended or repealed at any meeting of the Board of

Directors by a resolution adopted by a majority of the Whole Board, provided notice of the proposed change was given in the notice of the meeting in a notice given no less than twenty-four (24) hours prior to the meeting. Subject to the provisions of the Certificate of Incorporation (including the rights of the holders of any series of Preferred Stock then outstanding), the stockholders shall also have power to adopt, amend or repeal these Bylaws, provided that notice of the proposed change was given in the notice of the meeting and provided further that, in addition to any vote of the holders of any class or series of stock of the Corporation required by law or by the Certificate of Incorporation (including the rights of the holders of any series of Preferred Stock then outstanding), the affirmative vote of the holders of at least two-thirds of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to adopt, amend or repeal any provision of these Bylaws.

AMENDMENT NO. 1 TO
ASSET PURCHASE AGREEMENT

This AMENDMENT NO. 1 TO ASSET PURCHASE AGREEMENT (this "Amendment"), is made and entered into as of September 26, 2019, between Medavate Corp., a Colorado corporation ("Buyer") and Histogenics Corporation, a Delaware corporation ("Seller"). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in that certain Asset Purchase Agreement dated as of May 7, 2019 between Buyer and Seller (the "Asset Purchase Agreement").

RECITALS

A. Section 5.01 of the Asset Purchase Agreement provides that the Asset Purchase Agreement may be amended if such amendment or waiver is in writing and is signed by each party to the Asset Purchase Agreement.

B. The parties wish to amend the Asset Purchase Agreement as set forth in this Amendment, such amendment to be effective as of the date hereof.

AGREEMENT

The parties to this Amendment, intending to be legally bound, hereby agree as follows:

1. **Amendments**.

   1.1 Section 1.05 of the Asset Purchase Agreement shall be amended and restated in its entirety as follows:

   "Section 1.05. *Purchase Price*. The purchase price for the Purchased Assets (the "**Purchase Price**") shall be $6,500,000, which amount shall be paid by Buyer to Seller on the Closing Date (as defined below)."

   1.2 Section 1.06 of the Asset Purchase Agreement shall be amended and restated in its entirety as follows:

   "Section 1.06. *Closing*. Unless mutually agreed in writing by Seller and Buyer otherwise, the closing of the Transactions contemplated hereby (the "**Closing**") shall take place at 9:00 a.m. Eastern Time on October 4, 2019 (the "**Closing Date**")."

2. **Continuing Effectiveness; Entire Agreement**. Except as expressly modified by this Amendment, the Asset Purchase Agreement shall remain in full force and effect in accordance with its terms. This Amendment shall be deemed an amendment to the Asset Purchase Agreement and shall become effective when executed and delivered by the Parties. Upon the effectiveness of this Amendment, all references in the Asset Purchase

Agreement to "the Agreement" or "this Agreement," as applicable, shall refer to the Asset Purchase Agreement, as modified by this Amendment. This Amendment constitutes the entire agreement between and among the parties hereto with respect to the subject matter hereof, and supersedes in their entirety all prior negotiations and agreements with respect to such subject matter, whether written or oral.

3. **Governing Law**. This Amendment shall be governed by, and construed in accordance with, the Laws of the State of Delaware, regardless of the Laws that might otherwise govern under applicable principles of conflicts of laws. If any provision of this Amendment is determined by an arbitrator or court of competent jurisdiction to be illegal or unenforceable, such provision will be enforced to the maximum extent possible and the other provisions will remain effective and enforceable. BUYER REPRESENTS THAT IT HAS CONSULTED WITH COUNSEL OF ITS CHOICE OR HAS CHOSEN VOLUNTARILY NOT TO DO SO SPECIFICALLY WITH RESPECT TO THIS AMENDMENT AND THE ASSET PURCHASE AGREEMENT.

4. **Headings**. The bold-faced headings and table of contents contained in this Amendment are for convenience of reference only, shall not be deemed to be a part of this Amendment and shall not be referred to in connection with the construction or interpretation of this Amendment.

5. **Assignability**. This Amendment shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the Parties and their respective successors and assigns.

6. **Counterparts; Exchanges by Facsimile**. This Amendment may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. The exchange of a fully executed Amendment (in counterparts or otherwise) by all Parties by electronic transmission in .PDF format shall be sufficient to bind the Parties to the terms and conditions of this Agreement.

7. **Miscellaneous**. Article 5 of the Asset Purchase Agreement is hereby incorporated into this Amendment *mutatis mutandis*.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first above written.

MEDAVATE CORP.

By: /s/ Michael K. Handley
Name: Michael K. Handley
Title: Chief Executive Officer

HISTOGENICS CORPORATION

By: /s/ Adam Gridley
Name: Adam Gridley
Title: President

Ocugen Announces Completion of its Merger with Histogenics to Create Nasdaq-Listed Clinical-Stage Company Developing Novel Ocular Gene Therapies and Biotherapeutics

MALVERN, PA, September 30, 2019 (BUSINESSWIRE) - Ocugen, Inc., (NASDAQ: OCGN), a clinical stage biopharmaceutical company focused on innovative therapies that address rare and underserved eye diseases, today announced the completion of its merger with Histogenics Corporation (previously NASDAQ: HSGX), and the change of the combined company's name to "Ocugen, Inc." Ocugen is expected to begin trading today on The Nasdaq Capital Market under the ticker symbol "OCGN." The executive team of Ocugen has become the executive team of the combined company, led by Shankar Musunuri, Ph.D., M.B.A., as Chairman, Chief Executive Officer and Co-Founder.

"Today marks the beginning of a new chapter for Ocugen, as a publicly traded company" said Dr. Musunuri. "We believe shareholders will benefit from our broad pipeline, which includes OCU300, an orphan drug candidate for ocular graft versus host disease in Phase 3 clinical trials, our modifier gene therapy platform, and OCU400, our first gene therapy product with two distinct orphan drug designations for patients with inherited retinal diseases, and our retinal disease programs in wet age-related macular degeneration and retinitis pigmentosa."

Also as previously announced, the combined company has a seven-person board, comprised of the following directors: Dr. Shankar Musunuri (who serves as Chairman of the Board), Uday B. Kompella, Ph.D. (Co-Founder), Ramesh Kumar, Ph.D., Frank N. Leo, Manish Potti, Suha Taspolatoglu, M.D., and John Zhang, Ph.D.

About the Merger

Immediately prior to the merger, Ocugen completed a private placement financing of approximately $25 million under the terms of the securities purchase agreement previously announced in August 2019. Additionally, immediately prior to the merger, Histogenics effected a reverse stock split of its common stock at a ratio of 1-for-60. As a result of the merger, after taking into account the reverse stock split, stockholders of Ocugen prior to the merger received shares of common stock of the combined company at an exchange rate of 0.4794.

Chardan Capital Markets LLC acted as exclusive financial advisor to Ocugen on the transaction and Morgan, Lewis & Bockius LLP served as legal counsel to Ocugen. Canaccord Genuity LLC acted as exclusive financial advisor to Histogenics on the transaction and Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP served as legal counsel to Histogenics.

About Ocugen, Inc.

Ocugen, Inc. is a clinical stage biopharmaceutical company focused on discovering, developing and commercializing a pipeline of innovative therapies that address rare and underserved eye diseases. The Company offers a robust and diversified ophthalmology portfolio that includes novel gene therapies, biologics, and small molecules and targets a broad range of high-need retinal and ocular surface diseases. Ocugen is leveraging its

groundbreaking modifier gene therapy platform to address genetically diverse inherited retinal disorders and dry AMD, based on nuclear hormone receptor genes *NR2E3* (OCU400) and *RORA* (OCU410), respectively. OCU400 has received two orphan drug designations (ODD) targeting two distinct IRDs. Ocugen is also developing novel biologic therapies for wet-AMD, DME and diabetic retinopathy (OCU200), as well as for retinitis pigmentosa (OCU100). The Company's late-stage Phase 3 trial for patients with ocular graft versus host disease (oGVHD)(OCU300) leverages Ocugen's patented OcuNanoE — Ocugen's ONE Platform™ technology to enhance the efficacy of topical ophthalmic therapeutics. OCU300 is the first and only therapeutic with ODD for oGVHD, providing certain regulatory and economic benefits. For more information, please visit www.ocugen.com.

Cautionary Note on Forward-Looking Statements

This press release contains forward-looking statements within the meaning of The Private Securities Litigation Reform Act of 1995. We may, in some cases, use terms such as "predicts," "believes," "potential," "proposed," "continue," "estimates," "anticipates," "expects," "plans," "intends," "may," "could," "might," "will," "should" or other words that convey uncertainty of future events or outcomes to identify these forward-looking statements. Such statements are subject to numerous important factors, risks and uncertainties that may cause actual events or results to differ materially from the Company's current expectations. These and other risks and uncertainties are more fully described in our periodic filings with the Securities and Exchange Commission (the "SEC"), including the risk factors described in the section entitled "Risk Factors" in Histogenics' Registration Statement on Form S-4 (Reg. No. 333-232147), as amended, filed with the SEC. Any forward-looking statements that the Company makes in this press release speak only as of the date of this press release. The Company assumes no obligation to update forward-looking statements whether as a result of new information, future events or otherwise, after the date of this press release.

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