

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

FORM 10-K/A
(Amendment No. 1)

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

For the fiscal year ended **December 31, 2022**

Or

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

For the transition period from _____ to _____

Commission **File Number**: 001-39290

WINDTREE THERAPEUTICS, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

2600 Kelly Road, Suite 100
Warrington, Pennsylvania
(Address of principal executive offices)

94-3171943

(I.R.S. Employer
Identification No.)

18976-3622
(Zip Code)

Registrant's telephone number, including area code: **(215) 488-9300**

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

Title of each class	Trading symbol(s)	Name of exchange on which registered
Common Stock, \$0.001 par value	WINT	The Nasdaq Capital Market

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

None

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

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

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b).

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

On June 30, 2022, the aggregate market value of shares of voting and non-voting common equity held by non-affiliates of the registrant was approximately \$9.2 million (based on the closing price on The Nasdaq Capital Market on that date). In determining this amount, the registrant has assumed solely for this purpose that all of its directors, executive officers and persons beneficially owning 10% or more of the outstanding shares of common stock of the registrant may be considered to be affiliates. This assumption shall not be deemed conclusive as to affiliate status for this or any other purpose.

As of April 27, 2023, there were 5,147,919 shares of the registrant's common stock outstanding.

Unless the context otherwise requires, all references to "we," "us," "our," and the "Company" include Windtree Therapeutics, Inc., and its consolidated subsidiaries.

Auditor Name: EisnerAmper LLP Auditor Location: Philadelphia, Pennsylvania Auditor Firm ID: 274

EXPLANATORY NOTE TO AMENDMENT NO. 1

Windtree Therapeutics, Inc., or the Company, is filing this Amendment No. 1 on Form 10-K/A, or Amendment No. 1, to its Annual Report on Form 10-K for the fiscal year ended December 31, 2022, which was filed with the Securities and Exchange Commission on March 31, 2023, or the Original Form 10-K, for the sole purpose of including the information required by Part III of Form 10-K. This information was previously omitted from the Original 10-K in reliance on General Instruction G(3) to Form 10-K, which permits the information in Part III to be incorporated in the Form 10-K by reference from our definitive proxy statement if such statement is filed no later than 120 days after our fiscal year-end. We are filing this Amendment No. 1 to include Part III information in our Form 10-K because we will not file a definitive proxy statement containing this information within 120 days after the end of the fiscal year covered by the Original Form 10-K. This Amendment No. 1 amends and restates in their entirety Items 10, 11, 12, 13 and 14 of Part III of the Original Form 10-K.

Pursuant to Rule 12b-15 under the Securities Exchange Act of 1934, as amended, or the Exchange Act, this Amendment No. 1 also contains certifications pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, which are attached hereto. Because no financial statements have been included in this Amendment No. 1 and this Amendment No. 1 does not contain or amend any disclosure with respect to Items 307 and 308 of Regulation S-K, paragraphs 3, 4, and 5 of the certifications have been omitted.

Except as explicitly set forth herein, this Amendment No. 1 does not purport to modify or update the disclosures in, or exhibits to, the Original Form 10-K or to update the Original Form 10-K to reflect events occurring after the date of such filing.

WINDTREE THERAPEUTICS, INC.

**Table of Contents to Annual Report on Form 10-K/A
For the Fiscal Year Ended December 31, 2022**

PART III		1
	ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE	1
	ITEM 11. EXECUTIVE COMPENSATION	6
	ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS	13
	ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE	14
	ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES	17
PART IV		17
	ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES	17
SIGNATURES		23

PART III**ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE**

The following table sets forth information regarding our executive officers and directors, including their ages as of April 27, 2023:

NAME	AGE	POSITION(S)
Executive Officers		
Craig E. Fraser	58	President and Chief Executive Officer, Director
John Tattory	57	Interim Chief Financial Officer
Diane Carman	54	Senior Vice President, General Counsel & Corporate Secretary
Eric Curtis	55	Senior Vice President and Chief Operating Officer
Steven G. Simonson, M.D.	64	Senior Vice President and Chief Medical Officer
Non-Employee Directors		
Daniel Geffken	66	Director
Robert Scott, M.D.	69	Director
Leslie Williams	63	Director

Information about our Executive Officers

Craig E. Fraser. Mr. Fraser has served as President and Chief Executive Officer, or CEO, and a member of the Board of Directors, or the Board, since February 1, 2016. He brings over 30 years of experience as a leader in drug development, fundraising, business development and commercial operations in building biopharmaceutical and device businesses for startups as well as larger companies. Prior to joining us, Mr. Fraser held executive positions at several biopharmaceutical companies, including Novelson as President and Chief Operating Officer from 2014 to 2015 and, prior to that, positions of increasing responsibility; as Vice President of Global Disease Areas at Pfizer from 2009 to 2011 and Vice President and Global Business Manager at Wyeth Pharmaceuticals from 2007 to 2009. Previously, Mr. Fraser served as Vice President, Sales & Marketing and Commercial Operations and as Vice President, Oncology Global Strategic Marketing at Johnson & Johnson; and as Gastroenterology Franchise Lead, National Sales Director - Immunology and Acute Cardiovasculars, and Marketing Director - Cardiovasculars and Diagnostics at Centocor and various sales and sales management positions prior to marketing roles. Mr. Fraser is a veteran of both the U.S. Marine Corps and the U.S. Army. Mr. Fraser does not serve on any other public company boards. Mr. Fraser received his B.S. degree in Public Administration from Slippery Rock University of Pennsylvania.

Mr. Fraser's knowledge of our business, as well as his extensive leadership and biopharmaceutical industry experience provide him with the qualifications and skills to serve on our Board.

John Tattory. Mr. Tattory has served as Interim Chief Executive Officer since January 27, 2023. He is a Senior Consultant with LS Associates, a management consulting firm, and has been associated with LS Associates since January 2023. Prior to LS Associates, Mr. Tattory was the Chief Financial Officer of Cerapedics, Inc., a commercial-stage ortho-biologics company, from September 2020 to December 2022. Mr. Tattory previously served as the Company's Senior Vice President and Chief Financial Officer from March 2014 to July 2020, having previously served as the Company's Vice President, Finance and Chief Accounting Officer from March 2013 to March 2014, the Company's Vice President, Finance and Controller and the designated principal accounting officer from July 2010 to March 2013, and the Company's Vice President, Finance from January 2008 to July 2010. He brings more than 25 years of financial management and leadership experience, including directing U.S. and international financial operations, strategic transactions, licensing and collaboration arrangements, and equity and debt financings. Prior to joining the Company, Mr. Tattory held financial management positions at Tyco International and Bristol-Myers Squibb. Previously, Mr. Tattory served as an Audit Manager with Ernst & Young LLP. Mr. Tattory is a certified public accountant (currently inactive status) and holds a B.S. degree in Commerce from Rider University.

Diane Carman. Ms. Carman has served as our Senior Vice President and General Counsel since July 2021 and as Corporate Secretary since January 2023. Ms. Carman brings over two decades of successful experience working in the life sciences and other highly regulated industries. She has built the legal and compliance infrastructure; led the legal, compliance, risk management and human resources functions; and served as a strategic business partner and general counsel to several biotech and medical device companies. From June 2020 to July 2021, Ms. Carman served as General Counsel and Secretary to Vitara Biomedical, Inc., an early stage, spin-out of the Children's Hospital of Philadelphia committed to transforming the lives of premature infants. Prior to Vitara, from October 2018 to June 2020, she was Executive Vice President & General Counsel to Helius Medical Technologies, a publicly traded medical device company focused on neurological wellness. From October 2017 to October 2018, Ms. Carman served as General Counsel to Ablynx, Inc., a public biopharmaceutical company, which she helped shepherd through its successful sale to Sanofi in 2018. Earlier in her career, Ms. Carman also worked as Chief Corporate Counsel & Compliance Officer to Gamesa Technology Corporation, an international, public renewable energy company as well as Attorney for Labor Relations and Talent Negotiations for the National Broadcasting Company (NBC); was an associate with the AmLaw 100 firm of O'Melveny & Myers, LLP; and served as a judicial intern for Judge Jane Roth in the U.S. Court of Appeals for the Third Circuit. Ms. Carman holds a J.D. from the Villanova University Charles Widger School of Law (summa cum laude) and a B.A. from Villanova University (magna cum laude).

Eric Curtis. Mr. Curtis has served as our Senior Vice President and Chief Operating Officer since March 2020. Prior to joining us, he served as Chief Executive Officer and President of Centurion BioPharma, a biopharmaceutical research and development focused company and a private subsidiary of CytRx Corporation, from June 2018 to November 2019. Mr. Curtis was primarily responsible for the company's corporate strategy, pipeline development plan and business development. Prior to that role, he was President and Chief Operating Officer of CytRx Corporation, a biopharmaceutical company focused in oncology, from February 2018 to March 2020. Mr. Curtis' responsibilities included corporate strategy, pipeline development and investor relations. Before that, Mr. Curtis was principal of Curtis Biopharm Consulting where he led his consulting business to work with the chief executive officers of several biopharmaceutical companies on refining their company's strategic product development, commercialization effectiveness and focusing resources from 2016 to February 2018. Before that, Mr. Curtis served as President, US Commercial of Aegerion Pharmaceuticals, a biopharmaceutical company from 2014 to 2016. He led the commercial organization for US, represented commercial for global business development and was the lead of commercial for investor relations strategy and execution. Mr. Curtis earned his MBA from Pennsylvania State University, and his B.S. in Business and Psychology from the University of Pittsburgh.

Steven G. Simonson. Dr. Simonson has served as our Senior Vice President and Chief Medical Officer, or CMO, since April 2017, having previously served as our Senior Vice President and Chief Development Officer from October 2014 to April 2017, and our Vice President, Clinical Development, upon joining the Company in May of 2014. Dr. Simonson brings to us over 25 years of medical practice and pharmaceutical industry clinical trial experience with a significant background in drug development, including preclinical, first time into man and phases 1-4, and IND, NDA, and sNDA experience. Dr. Simonson spent 15 years at AstraZeneca Pharmaceuticals in areas of medical and clinical leadership primarily in the pulmonary, cardiovascular, and critical care therapeutic areas. He has been involved in or led several successful IND and NDA filings. He spent the next two years as Vice President of Clinical Development at Agennix, Inc., a biopharmaceutical company primarily focused in oncology and sepsis. Dr. Simonson was also an Executive Director in the Molecule Development Group at Covance, a biopharmaceutical development services company, where he applied his experience to developing clinical development programs for small and mid-size biotech and pharmaceutical companies. Dr. Simonson completed training in internal medicine followed by a fellowship in pulmonary and critical care medicine at Duke University Medical Center. He then held several faculty appointments at Duke in the departments of Anesthesiology and Medicine, including the divisions of Pulmonary and Critical Care Medicine. He is a Fellow of the American College of Chest Physicians, and author or co-author of multiple peer reviewed publications, abstracts, posters and chapters. Dr. Simonson received his medical degree from the Medical College of Wisconsin, and his Master of Health Sciences degree in Biometry from the Duke University School of Medicine.

Non-Employee Directors

Daniel E. Geffken. Mr. Geffken has served as a member of our Board since April 24, 2019 and was also appointed Chair of the Audit Committee and as a member of the Compensation Committee. Since 2011, Mr. Geffken has been serving as the Founding Managing Partner of Danforth Advisors, a leading financial and strategy consulting firm to the life sciences industry. He has served as chief financial officer and strategic consultant to numerous companies, including Apellis Pharmaceuticals, Cidara Therapeutics, Cabaletta Bio, Homology Medicines, Stealth BioTherapeutics and Transkaryotic Therapies. Mr. Geffken has served on the Board of Elicio Bio, Alcobra Ltd. and Arcturus Inc., after its merger with Alcobra. Mr. Geffken earned his MBA from Harvard Business School, and his B.S. in Economics from the Wharton School.

Mr. Geffken's deep understanding of the industry in which we operate, in corporate financial management and his overall business acumen and insights provide him with the qualifications and skills to serve on our Board.

Robert Scott, M.D. Dr. Scott has served as a member of our Board since February 2021. He has held leadership positions for over 30 years in the world's leading biopharma companies, including J&J, Pfizer, Amgen and AbbVie. During that time, Dr. Scott has led development teams responsible for highly successful brands such as Norvasc®, Lipitor®, Repatha®, Humira®, Skyrizi® and Rinvoq™. Prior to his recent retirement as Chief Medical Officer and Head of Development for AbbVie, a research-based global biopharmaceutical company, in April 2020, Dr. Scott was responsible for a team of over 4,000 individuals across 52 countries, a budget of nearly US\$3 billion and programs involving more than 40 new molecular entities since joining in April 2016. Prior to joining AbbVie, Dr. Scott served as Vice President of Global Development for Amgen from October 2010 to February 2016, where he conducted, among other programs, heart failure development. From 2002 until 2007, he was the Chief Medical Officer and Executive Vice President of Research and Development at AtheroGenics. While there he designed and implemented the first large cardiovascular outcomes study to be wholly performed by a small biotech. Dr. Scott also worked for Pfizer, one of the world's premier biopharmaceutical companies, from 1992 to 2002. While there, he was intimately involved in many cardiovascular clinical trials. He also was integral in developing the cholesterol drug Lipitor® and Norvasc®, a drug used to treat high blood pressure. Dr. Scott has served on many committees and boards, including as a member of the FDA Cardiac and Renal Drug Advisory Committee from 2012 until 2016, the Board of Transcelerate, and as a member of the PhRMA Research and Development Leadership Forum. Dr. Scott currently serves as a director for Redx Pharma, ArisGlobal, Confo Therapeutics, Oncospherix Inc. and Draupnir Bio, where he also sits on the Remuneration Committee. Dr. Scott received his BSc in Microbiology and Biochemistry and MbChB in Medicine from the University of Cape Town.

Dr. Scott's extensive experience leading large biopharmaceutical companies through several successful product developments provides him with the qualifications and skills to serve on our Board.

Leslie J. Williams. Ms. Williams has served as a member of our Board since February 2021. She is a 25-year biopharmaceutical veteran and is an experienced biotech chief executive officer and board of directors' member. She has experience in healthcare, management, commercial product development and marketing. In 2021, she founded hC Bioscience, Inc., a discovery stage biotech company, and serves as Director, President and Chief Executive Officer. Prior to this, she spent 10 years at ImmusanT, Inc., a clinical stage biotechnology company, and she served as Director, President & Chief Executive Officer of ImmusanT until 2019. Prior to that, she was President and Chief Executive Officer of Ventaira Pharmaceuticals since 2004 and under her leadership the company became a significant player in the pulmonary drug-delivery market until it was sold at the end of 2007. Prior to Ventaira, Ms. Williams was director of marketing for INO Therapeutics, Inc. and additional experience includes commercial positions at Merck and GSK, and drug-delivery and -monitoring experience at Datex-Ohmeda (formerly Ohmeda, Inc.). She was a venture partner at Battelle Ventures where she sourced and evaluated deals and assisted early-stage technology companies with strategy, management, business development and M&A. She has served on several private, public and non-profit boards. In addition to serving as Chief Executive Officer at hC Bioscience, she serves on the Board of Ocular Therapeutix since 2019, Life Science Leader since 2011, CSCRI since 2018, and Life Science Cares since 2017. Ms. Williams holds an MBA from Washington University, John Olin School of Business, and a B.S. degree with honors in nursing from the University of Iowa. Before entering industry, she was a critical-care nurse at Duke University, Medical College of Virginia and at the University of Iowa.

Ms. Williams' insight into the biotechnology industry experience and familiarity with public life science company boards provides her with the qualifications and skills to serve on our Board.

Family Relationships

There are no family relationships among our directors and executive officers.

Board Leadership Structure

Our Board is currently composed of four members. In accordance with our Amended and Restated By-Laws, or By-Laws, each director is elected at our Annual Meeting of Stockholders. Each director holds office until our next Annual Meeting of Stockholders and until his or her successors have been duly elected and qualified, or until such director's death, or until such director shall have resigned, or have been removed.

We believe that the Board should remain free to configure the leadership of the Board and the Company in a way that best serves the interests of the Company and its stockholders at the time and, accordingly, has no fixed policy with respect to combining or separating the offices of the Chairman of the Board and the CEO.

Role of Board in Risk Oversight

One of the key functions of our Board is to oversee our risk management process. Our Board does not have a standing risk management committee, but rather administers this oversight function directly through our Board as a whole, as well as through various standing committees of our Board that address the risks inherent in their respective areas of oversight. In particular, our Board is responsible for monitoring and assessing strategic risk exposure and our Audit Committee has the responsibility to consider and discuss our major financial risk exposures and the steps our management has taken to monitor and control these exposures, including guidelines and policies to govern the process by which risk assessment and management is undertaken. While our Board maintains the ultimate oversight responsibility for the risk management process, its committees oversee risk in certain specified areas. For example:

- Our Audit Committee oversees management of financial reporting, compliance and litigation risks, including risks related to our insurance, information technology, human resources and regulatory matters, as well as the steps management has taken to monitor and control such exposures.
- Our Compensation Committee is responsible for overseeing the management of risks relating to our executive compensation policies, plans and arrangements and the extent to which those policies or practices increase or decrease risks for our company.
- Our Nominating and Corporate Governance Committee manages risks associated with the independence of our Board, potential conflicts of interest and the effectiveness of our Board.

Director Independence

Our Board has undertaken a review of its composition, the composition of its committees and the independence of each director. Based upon information provided by each director, our Board has determined that each of our directors, and directors whom have served on our Board since the beginning of the 2022 fiscal year, with the exception of Mr. Fraser, does or did not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and is independent under the listing rules of Nasdaq. In making these determinations, our Board considered the current and prior relationships that each non-employee director has with our company and all other facts and circumstances our Board deemed relevant in determining their independence, including the beneficial ownership of our capital stock by each non-employee director, and the transactions involving them described in “Item 13—Certain Relationships and Related Party Transactions.”

Board Committees

Our Board has established an Audit Committee, a Compensation Committee and a Nominating and Corporate Governance Committee. The composition and responsibilities of each of the committees of our Board is described below. Members will serve on these committees until their resignation or until as otherwise determined by our Board.

Audit Committee

Our Audit Committee consists of Mr. Geffken, Dr. Scott and Ms. Williams, with Mr. Geffken serving as Chair of our Audit Committee.

The primary purpose of the Audit Committee is to assist the Board in fulfilling its oversight responsibilities relating to our accounting, reporting and financial practices, and our compliance with all related legal and regulatory requirements, including, but not limited to, oversight of:

- the appointment, retention and compensation of the Company’s independent auditor;
- the maintenance by management of the reliability and integrity of the Company’s accounting policies, financial reporting and disclosure practices, and tax compliance;
- the establishment and maintenance by management of processes to ensure that an adequate system of internal control is functioning within the Company; and
- the establishment and maintenance by management of processes to ensure compliance by the Company with all applicable laws, regulations and Company policy.

In addition, the Audit Committee is responsible for, among other things, the appointment, compensation and oversight of the work of our independent auditor or any registered public accounting firm engaged (including resolution of disagreements between management and the auditor regarding financial reporting), reviewing the range and cost of audit and non-audit services performed by our independent auditor, reviewing the adequacy of our systems of internal control, and reviewing all related party transactions. In discharging its role, the Audit Committee is empowered to investigate any matter brought to its attention and has full access to all the Company’s books, records, facilities and personnel. The Audit Committee also has the power to retain such legal, accounting and other advisors as it deems necessary to carry out its duties.

The Board has adopted a written Audit Committee Charter. The composition and responsibilities of the Audit Committee and the attributes of its members, as reflected in its Charter, are intended to be in accordance with certain listing requirements of Nasdaq and the rules of the SEC for corporate audit committees. The Audit Committee Charter may be found on our website at www.windtreetx.com. All members of our Audit Committee are “independent” as defined in Rule 5605(a)(2) of the Nasdaq Listing Rules and the financial sophistication requirements of the SEC rules. The Board has determined that Mr. Geffken is an “audit committee financial expert” as defined under SEC rules.

Compensation Committee

Our Compensation Committee consists of Mr. Geffken, and Dr. Scott, with Dr. Scott serving as Chair of our Compensation Committee. Each member of the Compensation Committee (i) meets the requirements for independence under the current Nasdaq Listing Rules, and (ii) is a non-employee director, as defined by Rule 16b-3 promulgated under the Securities Exchange Act of 1934, as amended, or the Exchange Act.

The Compensation Committee is responsible for, among other things:

- reviewing management of the Company's policies regarding compensation policies relating to executive and general compensation;
- reviewing and approving corporate goals and objectives relating to the composition of our CEO, executive officers, and other senior officers, evaluate performance of executive officers and other senior officers and determine the CEO's and other executive officers' compensation level based on the Compensation Committee's evaluation;
- reviewing, approving, and establishing guidelines for the Board; and
- overseeing the key employee benefits programs, policies and plans relating to the compensation, benefits and equity incentives of the Company's executives and, where deemed appropriate by the Compensation Committee, those programs, policies and plans relating to the Company's other employees.

The Board has adopted a written Compensation Committee Charter. The composition and responsibilities of the Compensation Committee, as reflected in its Charter, satisfy the applicable rules of the SEC and the listing requirements of Nasdaq. The Compensation Committee Charter may be found on our website at www.windtreetx.com.

In the past, our Compensation Committee has delegated authority to our CEO to grant options or other stock awards, in accordance with guidelines established by the Compensation Committee in consultation with our compensation consultant, to certain non-executive officers. Our Compensation Committee also has the authority to form and delegate authority to one or more subcommittees as it deems appropriate from time to time under the circumstances.

Our CEO annually reviews the performance of each of the other executive officers, including the other named executive officers. He then recommends annual merit salary adjustments and any changes in annual or long-term incentive opportunities for other executives. The Compensation Committee considers our CEO's recommendations in addition to data and recommendations presented by our executive compensation consultant, if any.

AON Consulting, Inc., or AON, served as our executive compensation consultant from 2021 to 2022. Through this assignment, AON has provided various executive compensation services to the Compensation Committee, including advising the Compensation Committee on the principal aspects of our executive compensation program and evolving industry practices and providing market information and analysis regarding the competitiveness of our program design and our award values in relation to performance. Upon request by the Compensation Committee, a representative of AON attended certain Compensation Committee meetings. AON does not provide services to Windtree other than with regard to its advice to the Compensation Committee on executive and director compensation matters. The Compensation Committee determined AON to be independent under the Nasdaq and SEC regulations.

Nominating and Corporate Governance Committee

Our Nominating and Corporate Governance Committee consists of Dr. Scott and Ms. Williams, with Ms. Williams serving as Chair of our Nominating and Corporate Governance Committee. Each member of the Nominating and Corporate Governance Committee meets the requirements for independence under the listing requirements of Nasdaq.

The Nominating and Corporate Governance Committee is responsible for, among other things:

- identifying, evaluating and approving a slate of nominees for election to the Board at the Annual Meeting of Stockholders or any other meetings of stockholders and reviewing the qualifications, experience and fitness for service on the Board of any potential directors;
- determining the criteria for selection by the Board of the Chairman of the Board, the individual directors and the members of the committees of the Board;
- reviewing, evaluating and approving candidates submitted by stockholders to the Company and the timeliness of the submission therefor and recommending to the Board appropriate action on each such candidates; and
- reviewing annually the performance of the Board.

The Board has adopted a written Nominating and Corporate Governance Committee Charter. The composition and responsibilities of the Nominating and Corporate Governance Committee, as reflected in its Charter, satisfy the applicable rules of the SEC and the listing requirements of Nasdaq. The Nominating and Corporate Governance Committee Charter may be found on our website at www.windtreetx.com.

Code of Business Conduct and Ethics

We have adopted a Code of Business Conduct and Ethics that applies to our officers, including our principal executive, financial and accounting officers, and our directors and employees. We have posted the Code of Business Conduct and Ethics on our Internet website at "<http://www.windtreetx.com>" under the "*Investors—Corporate Governance*" tab. We intend to make all required disclosures on our website concerning any amendments to, or waivers from, our Code of Business Conduct and Ethics with respect to our executive officers and directors.

Delinquent Section 16(a) Reports

Section 16 of the Exchange Act requires our directors, certain officers, and beneficial owners of more than ten percent of our common stock to file reports with the SEC indicating their holdings of and transactions in our equity securities, and to provide copies of such reports to us. Based solely on a review of our records, publicly available information, and written representations by the persons required to file such reports, all filing requirements of Section 16(a) were satisfied with respect to the 2022 fiscal year by our directors and officers.

ITEM 11. EXECUTIVE COMPENSATION

Named Executive Officers

Our named executive officers, or NEOs, for the year ended December 31, 2022, which consists of our principal executive officer and our two other most highly compensated executive officers, are:

- Craig E. Fraser, our President and CEO;
- John P. Hamill, our former Senior Vice President, CFO, and Treasurer; and
- Steven G. Simonson, M.D., our Senior Vice President and CMO.

This section discusses the material components of the executive compensation program for our NEOs.

The following table presents summary information regarding the total compensation that was awarded to, earned by or paid to our NEOs for services rendered during the years ended December 31, 2022 and 2021.

Summary Compensation Table

Name and Principal Position	Year	Salary (\$)	Bonus (\$)	Stock Awards (\$)(1)	Option Awards (\$)(2)	All Other Compensation (\$)(3)	Total (\$)
Craig E. Fraser	2022	544,600	—	170,238	216,922	9,150	940,910
<i>President and CEO</i>	2021	479,931	95,986	-	1,292,545	8,700	1,877,162
John P. Hamill	2022	398,017	—	67,626	86,283	9,150	561,076
<i>Former Senior VP, CFO, and Corporate Secretary</i>	2021	380,175	83,639	-	270,690	8,700	743,204
Steven G. Simonson, M.D.	2022	434,952	—	67,626	86,283	11,150	600,011
<i>Senior VP and CMO</i>	2021	418,193	85,311	-	507,995	10,800	1,022,299

(1) Represents the aggregate grant date fair value of restricted stock unit awards, or RSUs, computed in accordance with Financial Accounting Standards Board Accounting Standards Codification, or ASC, Topic 718, Stock Compensation, or ASC Topic 718, and does not take into account estimated forfeitures related to service-based vesting conditions, if any. The valuation assumptions used in calculating these values are discussed in Note 11 of the Audited Consolidated Financial Statements of our Annual Report on Form 10-K for the year ended December 31, 2022. These amounts do not represent actual amounts paid or to be realized. Amounts shown are not necessarily indicative of values to be achieved, which may be more or less than the amounts shown as awards are subject to time-based vesting.

(2) Represents the aggregate grant date fair value of option awards computed in accordance with ASC Topic 718 and does not take into account estimated forfeitures related to service-based vesting conditions, if any. The valuation assumptions used in calculating these values are discussed in Note 11 of the Audited Consolidated Financial Statements of our Annual Report on Form 10-K for the year ended December 31, 2022. These amounts do not represent actual amounts paid or to be realized. Amounts shown are not necessarily indicative of values to be achieved, which may be more or less than the amounts shown as awards are subject to time-based vesting.

(3) Reflects matching contributions under our 401(k) Plan, and, with respect to Dr. Simonson, includes \$2,000 for the Company's funding of a health savings account in 2022 and \$2,100 for a car allowance in 2021.

Narrative Disclosure to Summary Compensation Table

Elements of Compensation

The compensation of our NEOs generally consists of base salary, annual cash bonus opportunities, long term incentive compensation in the form of equity awards and other benefits, as described below.

Base Salary

The base salary payable to each NEO is intended to provide a fixed component of compensation reflecting the NEO's skill set, experience, role, responsibilities, and contributions.

Annual Cash Bonus Opportunities

The performance-based cash bonus opportunity for each of our NEOs is expressed as a percentage of the applicable NEO's base salary that can be achieved at a target level by meeting predetermined corporate and individual performance objectives. Each executive's target bonus for the year is set forth in their employment agreements, as may be amended by the Compensation Committee from time to time. For 2022, our Compensation Committee and Board determined that each NEO's performance bonus should be based principally on contribution towards the achievement of corporate goals. These goals primarily included research and development, financial, and positioning and awareness objectives. The Compensation Committee established that the 2022 annual target bonus amount for Mr. Fraser be targeted at 50% of his base salary and for Dr. Simonson and Mr. Hamill be targeted at 40% of their respective base salaries. No bonus payments were made for the 2022 performance year.

Equity-Based Incentive Awards

Our equity-based incentive awards are designed to align our interests and the interests of our stockholders with those of our employees and consultants, including our NEOs. Our Board or Compensation Committee approves equity grants in its discretion, which have historically been in the form of stock options or restricted stock units, or RSUs.

On March 4, 2022, the Compensation Committee approved grants of stock options to Messrs. Fraser and Hamill and Dr. Simonson to purchase 5,008, 1,992, and 1,992 shares of our common stock, respectively, each with a per share exercise price of \$51.00. All options vest in equal annual installments on each of the first three anniversaries of the date of grant, subject to the NEO's continuous service through the relevant vesting dates; provided, however, that such stock options may be eligible to fully accelerate in vesting in connection with a termination of employment as further described in the section titled "*Executive Employment Agreements*" below. See "*Executive Compensation—Outstanding Equity Awards at Fiscal Year-End*" for more information regarding equity awards made to our NEOs.

Other Benefits

We currently provide health and welfare benefits that are available to all of our employees, including our NEOs, including health, dental, life, vision and disability insurance.

In addition, we maintain, and the NEOs participate in, our 401(k) Plan that is intended to be qualified under Section 401(a) of the Code and that provides eligible employees with an opportunity to save for retirement on a tax advantaged basis and under which we are permitted to make discretionary employer contributions. The 401(k) Plan also includes a discretionary company match in an amount per participant equal to 50% of each participant's contribution (up to a maximum of 6% of the participant's base salary). Matching contributions were made in 2021 and 2022.

We do not maintain any defined benefit pension plans or nonqualified deferred compensation plans.

Executive Employment Agreements

We are party to executive employment agreements, or the Executive Agreements, as amended from time to time, with each of our NEOs, the key terms of which are described below.

Mr. Fraser's Employment Agreement

We entered into an employment agreement with Mr. Fraser, effective February 1, 2016, which was subsequently amended. Mr. Fraser's employment agreement provides for an annual base salary, which in 2022 was \$557,300, and eligibility to receive an annual incentive-based cash bonus, which may be awarded at the discretion of the Compensation Committee, with a target amount equal to 50% of his base salary.

If Mr. Fraser's employment is terminated due to death or Disability (as such term is defined in the employment agreement), all equity awards held by Mr. Fraser shall become fully vested and all stock options shall continue to be exercisable for the remainder of their stated term.

If Mr. Fraser's employment is terminated by us without Cause or by Mr. Fraser for Good Reason prior to a Change of Control (as such terms are defined in the employment agreement) or after the 2nd anniversary of a Change of Control, Mr. Fraser will be eligible to receive the following, in addition to any amounts or benefits that are due under any of our vested plans or other policies, and on the condition that he enters into a separation agreement containing a final and effective plenary release of claims in a form acceptable to us, provided that all of our obligations shall cease if Mr. Fraser engages in a material breach of the employment agreement, or his restrictive covenant obligations, and fails to cure such breach within five business days after receipt from us of notice of such breach:

- A pro rata bonus equal to a percentage of Mr. Fraser's target bonus amount determined by dividing the total actual bonuses paid to other contract executives for the year in which the termination occurs by the aggregate of such other contract executives' total target bonuses for that year, and further prorated for the number of days Mr. Fraser was employed in the year of termination, payable at the time that other contract executives are paid bonuses with respect to the year of termination;
- A severance amount equal to the sum of Mr. Fraser's base salary then in effect (determined without regard to any reduction constituting Good Reason) and the target bonus amount, payable in equal installments in accordance with our regular payroll schedule from the date of termination to the date that is 12 months after the date of termination, or the Severance Period;
- All vested stock options and other similar equity awards held by Mr. Fraser shall continue to be exercisable during the Severance Period; and
- During the Severance Period, if Mr. Fraser elects to continue medical benefits through the Consolidated Omnibus Budget Reconciliation Act of 1985, or COBRA, we will continue to pay our costs of Mr. Fraser's and his dependents' benefits as in effect on the date of termination as such benefits are provided to active employees, which obligation terminates in the event substantially similar coverage (determined on a benefit-by-benefit basis) is provided by a subsequent employer..

If Mr. Fraser's employment is terminated by us without Cause or by Mr. Fraser for Good Reason prior to but in connection with a Change of Control or prior to the 2nd anniversary of a Change of Control, Mr. Fraser will be eligible to receive the following, in addition to any amounts or benefits that are due under any of our vested plans or other policies, and on the condition that he enters into a separation agreement containing a final and effective plenary release of claims in a form acceptable to us, provided that all of our obligations shall cease if Mr. Fraser engages in a material breach of the employment agreement, or his restrictive covenant obligations, and fails to cure such breach within five business days after receipt from us of notice of such breach:

- A pro rata bonus equal to Mr. Fraser's target bonus amount and prorated for the number of days Mr. Fraser was employed in the year of termination, payable in a lump sum within 10 days after the date of termination;
- A severance amount equal to 1.5 times the sum of Mr. Fraser's base salary then in effect (determined without regard to any reduction constituting Good Reason) and the target bonus amount, payable in a lump sum within 10 days after the date of termination except in certain limited circumstances;
- All equity awards held by Mr. Fraser shall accelerate and become fully vested and all stock options shall continue to be exercisable for the remainder of their stated terms; and
- For a period of 18 months following the termination date, if Mr. Fraser elects to continue medical benefits through COBRA, we will continue to pay our costs of Mr. Fraser and his dependents' benefits as in effect on the date of termination as such benefits are provided to active employees, which obligation terminates in the event substantially similar coverage (determined on a benefit-by-benefit basis) is provided by a subsequent employer..

In addition, upon a Change of Control, for a period of 24 months after the date of the Change of Control and provided that Mr. Fraser is employed on the last day of a fiscal year ending in that period, Mr. Fraser will be entitled to an annual bonus at least equal to Mr. Fraser's target bonus amount, payable no later than March 15 in the next succeeding fiscal year.

Mr. Fraser's employment agreement includes 12-month post-employment non-competition and non-solicitation covenants and provides for confidentiality and the assignment to us of all intellectual property.

Mr. Hamill's Employment Agreement

We are a party to an employment agreement with Mr. Hamill, which was effective July 20, 2020. Mr. Hamill's employment agreement provides for an annual base salary, which in 2022 was \$401,400, and an annual incentive-based cash bonus, which may be awarded at the discretion of the Compensation Committee, with a target amount equal to 40% of his annual base salary.

The employment agreement provides for Mr. Hamill to receive severance upon termination without Cause or by Mr. Hamill with Good Reason (as such terms are defined in the employment agreement) or in certain specific circumstances prior to, but in connection with or anticipation of, a Change of Control (as defined in the employment agreement) of (a) continued payment of base salary and subsidized COBRA benefits for 12 months following termination, (b) any earned but unpaid annual bonus for the fiscal year preceding Mr. Hamill's date of termination and a pro rata bonus equal to the annual bonus Mr. Hamill would have earned absent his separation (as defined in the employment agreement) which amount shall be paid when our other executives are paid, and (c) during the 12-month period following termination, all vested stock options and similar equity awards held by Mr. Hamill shall continue to be exercisable (such benefits the Hamill Severance Benefits).

If Mr. Hamill is terminated by us without Cause or Mr. Hamill terminates his employment with Good Reason within 24 months after a Change of Control (as defined in the employment agreement), the employment agreement further provides Mr. Hamill with severance, or the Hamill Change of Control Severance Benefits, consisting of any earned but unpaid annual bonus for the fiscal year preceding the date of Mr. Hamill's termination, a lump sum equal to one and one-half times Mr. Hamill's base salary and annual bonus amount paid in a lump sum within 10 days after the date of termination, 18 months of COBRA benefits (which obligation terminates in the event he becomes eligible for group health plan benefits under a subsequent employer's or a spouse's employer's plan), full vesting and acceleration of Mr. Hamill's equity awards upon the date of Mr. Hamill's termination and the continued exercisability of Mr. Hamill's equity awards for the remainder of their stated terms.

Mr. Hamill's receipt of the Hamill Severance Benefits or the Hamill Change of Control Severance Benefits, as applicable, is conditioned on his execution of a separation and release agreement in a form acceptable to us. The employment agreement further provides that in the event of a Change of Control transaction, all of Mr. Hamill's outstanding equity incentive awards will become fully vested so long as Mr. Hamill is actively employed by us at the time of such transaction. In the case of a termination of Mr. Hamill's employment due to death or disability, all shares of stock and all options shall become fully vested and any earned but unpaid annual bonus for the fiscal year preceding the termination date would be paid.

In January 2023, Mr. Hamill resigned as Chief Financial Officer. Pursuant to the terms of Mr. Hamill's employment agreement, upon his resignation, Mr. Hamill was eligible to receive all salary payable to him through the date of his resignation, as well as any other benefits as set forth in his employment agreement.

Dr. Simonson's Employment Agreement

We are a party to an employment agreement with Dr. Simonson, which was effective December 19, 2014, as subsequently amended on December 29, 2014 and March 13, 2018. Dr. Simonson's employment agreement provides for an annual base salary, which in 2022 was \$438,100, and an annual incentive-based cash bonus, which may be awarded at the discretion of the Compensation Committee, with a target amount equal to 40% of his annual base salary.

The employment agreement provides for Dr. Simonson to receive severance (upon termination without Cause or by Dr. Simonson with Good Reason (as such terms are defined in the employment agreement)) of (a) continued payment of base salary and subsidized COBRA benefits for 12 months following termination, which obligation terminates in the event substantially similar coverage (determined on a benefit-by-benefit basis) is provided by a subsequent employer, (b) a pro rata bonus equal to a percentage of Dr. Simonson's target bonus amount determined by dividing the total actual bonuses paid to other contract executives for the year in which the termination occurs by the aggregate of such other contract executives' total target bonuses for that year, and further prorated for the number of days Dr. Simonson was employed in the year of termination, payable at the time that other contract executives are paid bonuses with respect to the year of termination, and, (d) during the 12-month period following termination, all vested stock options and similar equity awards held by Dr. Simonson shall continue to be exercisable (such benefits, the Simonson Severance Benefits).

If Dr. Simonson is terminated by us without Cause or Dr. Simonson terminates his employment with Good Reason within 24 months of a Change of Control (as defined in the employment agreement), or in certain specific circumstances prior to, but in connection with or anticipation of, a Change of Control (as defined in the employment agreement), the employment agreement further provides Dr. Simonson with severance, or the Simonson Change of Control Severance Benefits, consisting of a lump sum equal to one and one-half times Dr. Simonson's base salary and annual bonus amount paid in a lump sum within 10 days after the date of termination, a pro rata bonus equal to Dr. Simonson's target bonus amount prorated for the number of days Dr. Simonson was employed in the year of termination, payable in a lump sum within 10 days after the date of termination, 18 months of COBRA benefits, which obligation terminates in the event substantially similar coverage (determined on a benefit-by-benefit basis) is provided by a subsequent employer, full vesting and acceleration of Dr. Simonson's equity awards upon the date of Dr. Simonson's termination and the continued exercisability of Dr. Simonson's equity awards for the remainder of their stated terms.

Dr. Simonson's receipt of the Simonson Severance Benefits or the Simonson Change of Control Severance Benefits, as applicable, is conditioned on his execution of a separation and release agreement in a form acceptable to us. In the case of a termination of Dr. Simonson's employment due to death or disability, all shares of stock and all options shall become fully vested and any earned but unpaid annual bonus for the fiscal year preceding the termination date would be paid.

Outstanding Equity Awards at Fiscal Year-End

The following table summarizes the number of shares of common stock underlying outstanding equity incentive plan awards for each NEO as of December 31, 2022:

Name	Grant Date	Option Awards				Stock Awards	
		Number of Securities Underlying Unexercised Options - Exercisable (#)(1)	Number of Securities Underlying Unexercised Options - Unexercisable (#)(1)	Option Exercise Price (\$)	Option Expiration Date	Number of Units of Stock That Have Not Vested (#)(2)	Market Value of Units of Stock That Have Not Vested (\$)
Craig E. Fraser	02/02/16	68		6,990.00	02/02/26		
	07/28/16	13		5,310.00	07/28/26		
	03/01/17	33		3,690.00	03/01/27		
	12/24/18	8,438		633.00	12/24/28		
	03/19/19	667		645.00	03/19/29		
	01/22/21	2,865	2,865	272.00	01/22/31		
John P. Hamill	03/04/22	1,252	3,756	51.00	03/04/32	3,338	28,373
	07/20/20	2,813	1,407	349.00	07/20/30		
	01/22/21	400	800	272.00	01/22/31		
Steven G. Simonson, M.D.	03/04/22	498	1,494	51.00	03/04/32	1,326	11,271
	05/19/14	3		71,400.00	05/19/24		
	03/27/15	7		49,140.00	03/27/25		
	02/02/16	12		6,990.00	02/02/26		
	07/28/16	8		5,310.00	07/28/26		
	03/01/17	18		3,690.00	03/01/27		
	12/24/18	4,922		633.00	12/24/28		
	03/19/19	333		645.00	03/19/29		
	01/22/21	1,101	1,151	272.00	01/22/31		
	03/04/22	498	1,494	51.00	03/04/32	1,326	11,271

(1) Options granted prior to 2022 vest and become exercisable in equal installments on each of the first three anniversaries of the applicable grant date, assuming that the NEO continues to be employed with us through each vesting date. Options granted in 2022 vest and become exercisable with respect to one-twelfth of the total number of shares subject to the options on a quarterly basis (every three months) provided that the NEO remains in continuous service on each vesting date.

(2) The RSUs represent a contingent right to receive the equivalent number of shares of common stock. These RSUs shall vest with respect to one-third of the total number of shares subject to the RSUs on an annual basis (every 12 months) provided that the NEO remains in continuous service on each vesting date.

Director Compensation

Directors who are also employees are not compensated separately for serving on the Board or any of its committees. Each of our non-employee directors receives cash compensation for his or her services. The Compensation Committee periodically conducts reviews of peer company director compensation practices, including before considering changes to our director compensation policy and amounts. In addition, to better align the interests of our Board with our stockholders, the Compensation Committee considers and recommends to the Board long-term equity compensation.

Pursuant to our Non-Employee Director Compensation Policy in place during 2022, our directors received annual cash retainers, paid on a quarterly basis, as set forth in the table below.

Non-Employee Director Compensation Policy		Cash Retainer (\$)
Board Member		10,000
Board Chair		6,250
Audit Committee		
	<i>Chair</i>	3,750
	<i>Member</i>	1,750
Compensation Committee		
	<i>Chair</i>	2,500
	<i>Member</i>	1,250
Nominating and Corporate Governance Committee		
	<i>Chair</i>	1,875
	<i>Member</i>	1,000
		Equity Retainer
Initial Equity Grant		Option to purchase 600 shares of common stock, vesting in three equal annual installments, beginning on the first anniversary of the grant date and subject to the director's continued service on the Board.
Annual Equity Grant		Option to purchase 300 shares of common stock, vesting in three equal annual installments, beginning on the first anniversary of the grant date and subject to the director's continued service on the Board.

Cash fees are paid quarterly and are typically pro-rated for non-employee directors who do not serve a full quarter. Our non-employee directors are also reimbursed for their business-related expenses incurred in connection with attendance at Board and committee meetings and related activities. Our only employee director, Mr. Fraser, receives no separate compensation for his service in such capacity.

The following table summarizes information concerning the compensation awarded to, earned by, or paid for services rendered in all capacities by our non-employee directors during the year ended December 31, 2022.

Name of Non-Employee Director	Fee Earned or Paid in Cash (\$)(*)	Stock Awards (\$)(1)	Option Awards (\$)(2)	Total (\$)
James Huang ⁽³⁾	65,000	2,350	2,994	70,344
Daniel E. Geffken	60,000	2,350	2,994	65,344
Robert Scott, M.D.	55,000	2,350	2,994	60,344
Leslie Williams	54,500	2,350	2,994	59,844
Evan Loh, M.D. ⁽⁴⁾	28,500	—	—	28,500

- (1) Represents the aggregate grant date fair value of RSUs computed in accordance with ASC Topic 718 and does not take into account estimated forfeitures related to service-based vesting conditions, if any. The valuation assumptions used in calculating these values are discussed in Note 11 of the Audited Consolidated Financial Statements of our Annual Report on Form 10-K for the year ended December 31, 2022. These amounts do not represent actual amounts paid or to be realized. Amounts shown are not necessarily indicative of values to be achieved, which may be more or less than the amounts shown as awards are subject to time-based vesting. As of December 31, 2022, Messrs. Huang and Geffken, Dr. Scott, and Ms. Williams each held RSUs to receive 100 shares of our common stock.
- (2) Represents the aggregate grant date fair value of option awards computed in accordance with ASC Topic 718 and does not take into account estimated forfeitures related to service-based vesting conditions, if any. The valuation assumptions used in calculating these values are discussed in Note 11 of the Audited Consolidated Financial Statements of our Annual Report on Form 10-K for the year ended December 31, 2022. These amounts do not represent actual amounts paid or to be realized. Amounts shown are not necessarily indicative of values to be achieved, which may be more or less than the amounts shown as awards are subject to time-based vesting. As of December 31, 2022, Messrs. Huang and Geffken each held options to purchase 1,150 shares of our common stock; (ii) Dr. Scott and Ms. Williams each held options to purchase 750 shares of our common stock; and (iii) Dr. Loh held options to purchase 600 shares of our common stock.
- (3) On April 18, 2023, Mr. Huang resigned from our Board.
- (4) On May 9, 2022, Dr. Loh resigned from our Board.
- (*) Due to cash resource constraints, we suspended payments of director fees in the fourth quarter of 2022. The amounts related to 2022 that are payable to our directors as of December 31, 2022 are as follows and were paid in April 2023: Mr. Huang – \$16,250, Mr. Geffken – \$15,000, Ms. Williams – \$13,625, and Dr. Scott – \$15,520.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**Securities Authorized for Issuance Under Equity Compensation Plans**

The following table describes as of December 31, 2022 the number of shares of our common stock issuable upon exercise of outstanding awards under our 2020 and 2011 Plans.

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)(1)	Number of securities available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders			
2020 Long-Term Incentive Plan	50,293	\$ 135.02	11,786
2011 Long-Term Incentive Plan(2)	29,140	683.94	—
Equity compensation plans not approved by security holders(3)			
Inducement Grants(4)	9,288	306.50	—
Total	88,721	\$ 333.26	11,786

(1) Represents the weighted-average exercise price of outstanding stock options and does not include RSUs.

(2) The 2011 Plan terminated on the effective date of the 2020 Plan. All shares that were available under the 2011 Plan, including any that are expired, forfeited or otherwise returnable to the 2011 Plan are transferred to and become available for grant under the 2020 Plan. All awards granted under the 2011 Plan continue to be governed by the terms of the 2011 Plan and the award agreements.

(3) Our Board has not established any specific number of shares that could be issued without stockholder approval. Inducement grants to new key employees are determined on a case-by-case basis. Other than possible inducement grants, we expect that all equity awards will be made under stockholder-approved plans

(4) Reflects grants of stock options to purchase 9,288 shares of common stock that were “inducement grants” as defined under Nasdaq Listing Rule 5635(c)(4).

Security Ownership of Certain Beneficial Owners and Management

Based solely upon information made available to us, the following table sets forth information as of April 27, 2023 regarding the beneficial ownership of our common stock by:

- each person known by us to be the beneficial owner of more than 5% of the outstanding shares of our common stock;
- each of our NEOs and directors; and
- all of our executive officers as a group.

The percentage of common stock outstanding is based on 5,147,919 shares of our common stock outstanding as of April 27, 2023. For purposes of the table below, and in accordance with the rules of the SEC, we deem shares of common stock subject to options that are currently exercisable or exercisable within sixty days of April 27, 2023 to be outstanding and to be beneficially owned by the person holding the options for the purpose of computing the percentage ownership of that person, but we do not treat them as outstanding for the purpose of computing the percentage ownership of any other person. Except as otherwise noted, each of the persons or entities in this table has sole voting and investing power with respect to all of the shares of common stock beneficially owned by them, subject to community property laws, where applicable. Except as otherwise noted below, the street address of each beneficial owner is c/o Windtree Therapeutics, Inc. 2600 Kelly Road, Suite 100, Warrington, PA 18976.

Name Of Beneficial Owner	Number Of Shares Of Common Stock	Percentage Of Common Stock
5% or Greater Stockholders		
Lincoln Park Capital Fund, LLC ⁽¹⁾	614,334	11.26%
NEOs and Directors		
Daniel Geffken ⁽²⁾	1,232	*
Robert Scott, M.D. ⁽³⁾	650	*
Leslie J. Williams ⁽³⁾	650	*
Craig E. Fraser ⁽⁴⁾	20,944	*
Steven G. Simonson, M.D. ⁽⁵⁾	8,726	*
All executive officers and directors as a group (7 persons)	39,121	*

* Less than 1%

(1) Includes 307,167 shares of common stock and 307,167 April 2023 Warrants to purchase 307,167 shares of common stock exercisable within 60 days of April 27, 2023. The April 2023 Warrants are subject to a 4.99% ownership cap (or, at the election of each holder prior to the date of issuance, 9.99%). Lincoln Park Capital, LLC, or LPC, is the Managing Member of Lincoln Park Capital Fund, LLC, or LPC Fund. Rockledge Capital Corporation, or RCC, and Alex Noah Investors, Inc., or Alex Noah, are the Managing Members of LPC. Joshua B. Scheinfeld is the president and sole shareholder of RCC, as well as a principal of LPC. Jonathan I. Cope is the president and sole shareholder of Alex Noah, as well as a principal of LPC. As a result of the foregoing, Mr. Scheinfeld and Mr. Cope have shared voting and shared investment power over the shares of common stock held directly by LPC Fund. Pursuant to Section 13(d) of the Act and the rules thereunder, each of LPC, RCC, Mr. Scheinfeld, Alex Noah, and Mr. Cope may be deemed to be a beneficial owner of the shares of Common Stock of the Issuer beneficially owned directly by LPC Fund. Pursuant to Rule 13(d)(4) of the Exchange Act, each of LPC, RCC, Mr. Scheinfeld, Alex Noah, and Mr. Cope disclaims beneficial ownership of the shares of common stock held directly by LPC Fund. The address for LPC Fund, LPC, RCC, Mr. Scheinfeld, Alex Noah, and Mr. Cope is 440 North Wells, Suite 410, Chicago, Illinois 60654.

(2) Includes 141 shares of common stock, 41 May 2020 Warrants to purchase 41 shares of common stock exercisable within 60 days of April 27, 2023 and options to purchase 1,050 shares of common stock exercisable within 60 days of April 27, 2023. The May 2020 Warrants are subject to a 4.99% ownership cap (or, at the election of each holder prior to the date of issuance, 9.99%), except that upon at least sixty-one (61) days' prior notice to us, each holder may increase the ownership cap after exercising such holder's May 2020 Warrants up to 9.99% (or up to 19.99% upon prior written approval by us).

(3) Includes 100 shares of common stock and options to purchase 550 shares of common stock exercisable within 60 days of April 27, 2023.

(4) Includes 1,976 shares of common stock, 2 Series A-1 Warrants to purchase 2 shares of common stock exercisable within 60 days of April 27, 2023, 41 May 2020 Warrants to purchase 41 shares of common stock exercisable within 60 days of April 27, 2023, 30 March 2021 Warrants to purchase 30 shares of common stock exercisable within 60 days of April 27, 2023, and options to purchase 16,083 shares of common stock exercisable within 60 days of April 27, 2023. The May 2020 Warrants are subject to a 4.99% ownership cap (or, at the election of each holder prior to the date of issuance, 9.99%), except that upon at least sixty-one (61) days' prior notice to us, each holder may increase the ownership cap after exercising such holder's May 2020 Warrants up to 9.99% (or up to 19.99% upon prior written approval by us).

(5) Includes 695 shares of common stock, 1 Series A-1 Warrant to purchase 1 share of common stock exercisable within 60 days of April 27, 2023, 10 May 2020 Warrants to purchase 10 shares of common stock exercisable within 60 days of April 27, 2023, 30 March 2021 Warrants to purchase 30 shares of common stock exercisable within 60 days of April 27, 2023, and options to purchase 7,990 shares of common stock exercisable within 60 days of April 27, 2023. The May 2020 Warrants are subject to a 4.99% ownership cap (or, at the election of each holder prior to the date of issuance, 9.99%), except that upon at least sixty-one (61) days' prior notice to us, each holder may increase the ownership cap after exercising such holder's May 2020 Warrants up to 9.99% (or up to 19.99% upon prior written approval by us).

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

We describe below transactions and series of similar transactions, since January 1, 2021 or currently proposed, to which we were a party or will be a party, in which:

- the amounts involved exceeded \$120,000; and
- any of our directors, executive officers or beneficial holders of more than 5% of any class of our capital stock had or will have a direct or indirect material interest.

Other than as described below, there have not been, nor are there any currently proposed, transactions or series of similar transactions meeting this criteria to which we have been or will be a party other than compensation arrangements, which are described where required under the sections titled "Management—Board Leadership Structure" and "Executive Compensation."

Our Board has adopted a written related person transaction policy setting forth the policies and procedures for the review and approval or ratification of related-person transactions. This policy covers any transaction, arrangement or relationship, or any series of similar transactions, arrangements or relationships, in which we were or are to be a participant, where the amount involved exceeds \$120,000 and a related person had or will have a direct or indirect material interest. Our management is responsible for determining whether a transaction is a related party transaction subject to our policy, and upon subject determination, is responsible for disclosing the material facts concerning the transaction and the related party's interest in our transaction to our Audit Committee. In reviewing and approving any such transactions, our Audit Committee is tasked to consider all relevant facts and circumstances with respect to the transaction and shall evaluate all available options, including ratification, revision or termination of the transaction. All of the transactions described above either were approved or ratified in compliance with this policy.

Since January 1, 2021, we have engaged in the following transactions with our directors, executive officers, holders of more than 5% of our voting securities, and affiliates or immediate family members of our directors, executive officers, and holders of more than 5% of our voting securities. We believe that all of these transactions were on terms as favorable as could have been obtained from unrelated third parties.

Lee's Pharmaceutical Holdings Limited and Affiliates

We have received substantial support from Lee's Holdings, our largest stockholder. Lee's Holdings is a company incorporated in the Cayman Islands with limited liability, whose common stock is listed on the Hong Kong Stock Exchange. As of December 31, 2022 and 2021, Lee's Holdings' beneficial ownership of our issued and outstanding shares of common stock was 13% and 17%, respectively.

Asia License Agreement

In June 2017, we entered into a License, Development and Commercialization Agreement, or the Asia License Agreement, with Lee's (HK), an affiliate of Lee's Holdings, and thereafter amended it, effective August 2017. Under the Asia License Agreement, as amended, we granted to Lee's (HK) an exclusive license with a right to sublicense (i) to develop, manufacture, and commercialize our KL4 surfactant products, including SURFAXIN, which was approved by the FDA in 2012 for respiratory distress syndrome, or RDS, in premature infants, SURFAXIN LS™, the lyophilized dosage form of SURFAXIN, and AEROSURF, including the Aerosol Delivery System, or ADS, and (ii) to register and manufacture SURFAXIN and SURFAXIN LS for use in the licensed territory, which includes the People's Republic of China, Hong Kong, Thailand, Taiwan, and 12 other countries.

Under the Asia License Agreement, Lee's (HK) made an upfront payment to us of \$1.0 million. We were also eligible to receive up to \$35.8 million in potential clinical, regulatory and commercial milestone payments and would have shared in any sublicense income Lee's (HK) may receive at a rate equal to low double digits. In addition, Lee's (HK) was responsible for all costs and expenses in and for the licensed territory related to development activities, including a planned AEROSURF Phase 3 clinical program, regulatory activities, and commercialization activities.

On August 17, 2022, we entered into an Amended and Restated License, Development and Commercialization Agreement, or the A&R License Agreement, with Lee's (HK) and Zhaoke Pharmaceutical (Hefei) Co. Ltd., a company organized under the laws of the People's Republic of China, effective as of August 9, 2022. We refer to Zhaoke and Lee's (HK) together as the "Licensee." The A&R License Agreement amends, restates, and supersedes the Asia License Agreement.

Under the A&R License Agreement, we granted to Licensee an exclusive license, with a right to sublicense, to develop, register, make, use, sell, offer for sale, import, distribute, and otherwise commercialize our KL4 surfactant products, including SURFAXIN®, the lyophilized dosage form of SURFAXIN, and aerosolized KL4 surfactant, in each case for the prevention, mitigation and/or treatment of any respiratory disease, disorder, or condition in humans worldwide, except for Andorra, Greece, and Italy (including the Republic of San Marino and Vatican City), Portugal, and Spain, or the Licensed Territory, which countries are currently exclusively licensed to Laboratorios Del Dr. Esteve, S.A.

We may receive up to \$78.9 million in potential clinical, regulatory, and commercial milestone payments under the A&R License Agreement. We are also entitled to receive a low double-digit percentage of Licensee's non-royalty sublicense income. Further, Licensee is solely and exclusively responsible for all costs and activities related to the development, manufacturing, regulatory approval, and commercialization of licensed products in the Licensed Territory, including all royalties payable in respect of third-party intellectual property rights sublicensed by us to Licensee and all intellectual property prosecution, maintenance and defense activities and costs.

Project Financing Agreement

In August 2020, we entered into a Project Financing Agreement with Lee's (HK), or the PF Agreement, dated and effective as of August 12, 2020, under which we received payments totaling \$2.8 million through October 2020. Pursuant to the PF Agreement, Lee's (HK) agreed to pay additional amounts to be set forth in an updated development budget to be agreed between the parties by September 1, 2020 and updated every six months thereafter, to fund the continued development of AEROSURF and to be paid with the payment schedule to be set forth in each updated development budget. In partial satisfaction of our obligations under the PF Agreement, we agreed to pay Lee's (HK) 50% of any Commercialization Net Revenues (as defined in the PF Agreement) up to an amount that is equal to 125% of the Project Expenses (as defined in the PF Agreement) funded by Lee's (HK). On November 12, 2020, Lee's (HK) provided notice of termination of additional funding under the PF Agreement, and we and Lee's (HK) revised our plans for the continued development of AEROSURF. Lee's (HK) agreed to continue the development of AEROSURF in Asia at its own cost. Lee's (HK) agreed to fund an additional \$1.0 million to us in 2021 for certain transition and analytical services to be provided by us with respect to the development of AEROSURF, which will be considered "Project Expenses" under the terms of the PF Agreement. In 2021, we received payments totaling \$1.0 million from Lee's (HK) and no further amounts are due under the PF Agreement as of December 31, 2021.

With the termination of the PF Agreement in November 2020, we ceased enrollment in our Phase 2b bridging study at the EU, clinical sites and transferred AEROSURF development activities to Lee's (HK) to be implemented under the terms of the A&R License Agreement.

Panacea Venture Management Company Ltd.

As of December 31, 2022 and 2021, Panacea Venture Management Company Ltd.'s, or Panacea's, beneficial ownership of our issued and outstanding shares of common stock was 9% and 8%, respectively. James Huang, who in connection with the CVie Acquisition in December 2018 was appointed as a director and Chairman of our Board, is a founding and Managing Partner to Panacea. On April 18, 2023, Mr. Huang resigned as a member of the Board.

February 2023 Warrant Exercise Inducement Offer Letter

On February 21, 2023, we entered into a warrant exercise inducement offer letter with Panacea Venture Healthcare Fund I, L.P., a holder of certain of our: (i) warrants issued in July 2018 to purchase 1,250 shares of common stock with an exercise price of \$600.00 per share; (ii) warrants issued in December 2018 to purchase 9,960 shares of common stock with an exercise price of \$607.50 per share; (iii) warrants issued in December 2019 to purchase 5,519 shares of common stock with an exercise price of \$604.50 per share; and (iv) warrants issued in May 2020 to purchase 5,517 shares of common stock with an exercise price of \$398.75 per share (collectively, the February 2023 Existing Warrants).

Pursuant to the terms of the inducement letter, we agreed to amend the February 2023 Existing Warrants by lowering the exercise price of the February 2023 Existing Warrants to \$7.06 per share. Additionally, the exercising holder agreed to exercise for cash all of their February 2023 Existing Warrants to purchase an aggregate of 22,246 shares of common stock in exchange for our agreement to issue to such exercising holder new warrants, or the February 2023 New Warrants, to purchase up to an aggregate of 44,492 shares of common stock. We received aggregate gross proceeds of approximately \$157,000 from the exercise of the February 2023 Existing Warrants by the exercising holders.

Each February 2023 New Warrant is exercisable into shares of common stock at a price per share of \$10.76, will be exercisable six months following its date of issuance, or the initial exercise date, and will expire on the fifth anniversary the initial exercise date. Subject to limited exceptions, Panacea will not have the right to exercise any portion of its February 2023 New Warrants if Panacea (together with Panacea's affiliates, and any persons acting as a group together with Panacea or any of Panacea's affiliates) would beneficially own a number of shares of our common stock in excess of 19.99% of our total shares of common stock outstanding.

Other Transactions

We have granted stock options to our named executive officers and certain of our directors. See "Item 11—Executive Compensation - Outstanding Equity Awards at Fiscal Year-End" for a description of these stock options.

We have entered into change of control and severance agreements with certain of our executive officers that provide for certain severance and change in control benefits. See "Item 11—Executive Compensation - Executive Employment Agreements."

During 2022, we incurred \$0.4 million in research and development expenses for services provided by an affiliate of Lee's Holdings to our wholly owned subsidiary, CVie Therapeutics.

On December 31, 2021, we entered into a Master Manufacturing and Supply Agreement with an affiliate of Lee's Holdings for the manufacture of our istaroxime drug product candidate.

Indemnification Agreements

We have entered into indemnification agreements with each of our directors and executive officers. These indemnification agreements, our amended and restated Certificate of Incorporation, as amended, or our Amended and Restated Certificate of Incorporation, and our By-Laws, require us to indemnify directors to the fullest extent permitted by Delaware law.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES**Audit Fees, Audit-Related Fees, Non-Audit Fees, Tax Fees and Other Fees**

The following table sets forth all fees paid or accrued by us for professional services rendered by EisnerAmper LLP, our independent registered public accounting firm during the year ended December 31, 2022 and by Ernst & Young LLP, our independent registered public accounting firm, during the year ended December 31, 2021:

Service	2022	2021
<u>EisnerAmper LLP</u>		
Audit Fees	\$ 257,250	\$ -
Tax Fees	-	-
Total	<u>257,250</u>	<u>-</u>
<u>Ernst & Young LLP</u>		
Audit Fees	75,000	782,720
Tax Fees	-	9,448
Total	<u>75,000</u>	<u>792,168</u>
Total fees	<u>\$ 332,250</u>	<u>\$ 792,168</u>

“**Audit fees**” include fees incurred for: (i) professional services rendered for the audit of our annual financial statements; (ii) the review of quarterly financial statements, (iii) issuance of consents associated with the filing of registration statements; (iv) delivery of auditor comfort letters, and (v) a statutory audit.

“**Tax fees**” consisted of all services, except those services specifically related to the audit of the financial statements, performed by the independent registered public accounting firm’s tax personnel, including tax compliance and reporting.

The Audit Committee considered whether the provision of all other services by EisnerAmper LLP and Ernst & Young LLP is compatible with maintaining the independence and has concluded that EisnerAmper LLP and Ernst & Young LLP are both independent.

Pre-approval Policies

The Audit Committee pre-approves specified audit and non-audit services prior to the engagement of our independent registered public accounting firm. Our CFO monitors the performance of all services rendered by our independent auditors, determines whether such services are within the list of pre-approved services and informs the Audit Committee on a timely basis of any such services.

On an ongoing basis, our CFO, together with our independent registered public accounting firm, is responsible to submit to the Audit Committee all requests for approval of services that require a specific pre-approval. The Audit Committee reviews these requests and advises management and the independent registered public accounting firm if the Audit Committee pre-approves the engagement of the independent auditors for such projects and services. On a periodic basis, management reports to the Audit Committee the actual spending for such projects and services compared to the approved amounts. The Audit Committee may delegate the ability to pre-approve audit and permitted non-audit services to a sub-committee of the Audit Committee, provided that any such pre-approvals are reported at the next Audit Committee meeting.

All such audit and permissible non-audit services were pre-approved in accordance with this policy during the fiscal year ended December 31, 2022.

PART IV**ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.**

(b) Exhibits.

The following exhibits are included with this Annual Report on Form 10-K/A.

Exhibit No.	Description
1.1	Form of Underwriting Agreement (incorporated by reference to Exhibit 1.1 to Windtree’s Registration Statement on Form S-1/A, as filed with the SEC on April 7, 2023).
3.1	Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to Windtree’s Annual Report on Form 10-K, as filed with the SEC on March 31, 2023).
3.2	Amended and Restated By-Laws, as amended (incorporated by reference to Exhibit 3.1 to Windtree’s Quarterly Report on Form 10-Q, as filed with the SEC on August 11, 2022).

- 4.1 [Form of Warrant dated October 10, 2014 \(incorporated by reference to Exhibit 4.11 to Windtree’s Quarterly Report on Form 10-Q, as filed with the SEC on November 7, 2014\).](#)
- 4.2 [Form of Series A-1 Warrant dated February 13, 2017 \(incorporated by reference to Exhibit 4.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on February 15, 2017\).](#)
- 4.3 [Form of Series C Warrant dated April 4, 2018 \(incorporated by reference to Exhibit 4.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on April 4, 2018\).](#)
- 4.4 [Form of Series D Warrant dated July 2, 2018 \(incorporated by reference to Exhibit 4.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on July 6, 2018\).](#)
- 4.5 [Form of Series E Warrant dated December 11, 2018 \(incorporated by reference to Exhibit 4.7 to Windtree’s Annual Report on Form 10-K, as filed with the SEC on April 16, 2019\).](#)
- 4.6 [Form of Series G Warrant dated December 24, 2018 \(incorporated by reference to Exhibit 4.3 to Windtree’s Current Report on Form 8-K, as filed with the SEC on December 21, 2018\).](#)
- 4.7 [Form of Series H Warrant dated February 14, 2019 \(incorporated by reference to Exhibit 4.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on December 21, 2018\).](#)
- 4.8 [Form of Series I Warrant dated December 6, 2019 \(incorporated by reference to Exhibit 4.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on December 9, 2019\).](#)
- 4.9 [Form of Series I Warrant Amendment dated May 6, 2020, to the Series I Warrant dated December 6, 2019 \(incorporated by reference to Exhibit 4.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on May 7, 2020\).](#)
- 4.10 [Form of Warrant issued in Windtree’s May 2020 underwritten public offering of securities \(incorporated by reference to Exhibit 4.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on May 22, 2020\).](#)
- 4.11 [Form of Warrant issued in Windtree’s March 2021 underwritten public offering of securities \(incorporated by reference to Exhibit 4.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on March 24, 2021\).](#)
- 4.12 [Form of Common Stock Purchase Warrant dated January 24, 2023 \(incorporated by reference to Exhibit 4.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on January 26, 2023\).](#)
- 4.13 [Form of Common Stock Purchase Warrant dated February 21, 2023 \(incorporated by reference to Exhibit 4.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on February 22, 2023\).](#)
- 4.14 [Description of Securities \(incorporated by reference to Exhibit 4.16 to Windtree’s Annual Report on Form 10-K, as filed with the SEC on March 29, 2021\).](#)
- 4.15 [Form of Common Warrant \(incorporated by reference to Exhibit 4.19 to Windtree’s Registration Statement on Form S-1/A, as filed with the SEC on April 7, 2023\).](#)
- 4.16 [Form of Pre-Funded Warrant \(incorporated by reference to Exhibit 4.20 to Windtree’s Registration Statement on Form S-1/A, as filed with the SEC on April 7, 2023\).](#)
- 4.17 [Form of Warrant Agency Agreement \(incorporated by reference to Exhibit 4.21 to Windtree’s Registration Statement on Form S-1/A, as filed with the SEC on April 7, 2023\).](#)
- 10.1† Sublicense Agreement dated October 28, 1996 between Johnson & Johnson, Ortho Pharmaceutical Corporation and Acute Therapeutics, Inc. (incorporated by reference to Exhibit 10.6 to Windtree’s Registration Statement on Form SB-2/A, as filed with the SEC on April 18, 1997 (Commission File Number 333-19375)).
- 10.2† [Amended and Restated License Agreement dated March 28, 2008, between Windtree and Philip Morris USA Inc. \(incorporated by reference to Exhibit 10.4 to Windtree’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2008, as filed with the SEC on May 9, 2008\).](#)

[Table of Contents](#)

- 10.3† [License Agreement dated March 28, 2008, between Windtree and Philip Morris Products S.A. \(incorporated by reference to Exhibit 10.5 to Windtree's Quarterly Report on Form 10-Q for the quarter ended March 31, 2008, as filed with the SEC on May 9, 2008\).](#)
- 10.4†† [Amended and Restated Sublicense and Collaboration Agreement dated December 3, 2004, by and between Discovery Laboratories, Inc. \(predecessor-in-interest to Windtree\) and Laboratorios del Dr. Esteve, S.A. \(incorporated by reference to Exhibit 10.3 to Windtree's Quarterly Report on Form 10-Q for the quarter ended September 30, 2020, as filed with the SEC on November 16, 2020\).](#)
- 10.5†† [Amended and Restated Supply Agreement dated December 3, 2004, by and between Discovery Laboratories, Inc. \(predecessor-in-interest to Windtree\) and Laboratorios del Dr. Esteve, S.A. \(incorporated by reference to Exhibit 10.2 to Windtree's Quarterly Report on Form 10-Q for the quarter ended September 30, 2020, as filed with the SEC on November 16, 2020\).](#)
- 10.6† [License, Development and Commercialization Agreement dated June 12, 2017, between Windtree and Lee's Pharmaceutical \(HK\) Ltd. \(incorporated by reference to Exhibit 10.1 to Windtree's Quarterly Report on Form 10-Q for the quarter ended June 30, 2017, as filed with the SEC on August 21, 2017\).](#)
- 10.7† [Amendment No. 1 dated August 14, 2017 to the License Development and Commercialization Agreement between Windtree and Lee's Pharmaceutical \(HK\) Ltd. dated June 12, 2017 \(incorporated by reference to Exhibit 10.1 to Windtree's Quarterly Report on Form 10-Q for the quarter ended September 30, 2017, as filed with the SEC on November 14, 2017\).](#)
- 10.8 [Amended and Restated License, Development and Commercialization Agreement, by and among Lee's Pharmaceutical \(HK\) Ltd., Zhaoke Pharmaceutical \(Hefei\) Co. Ltd., and Windtree Therapeutics, Inc., effective as of August 9, 2022 \(incorporated by reference to Exhibit 10.1 to Windtree's Quarterly Report on Form 10-Q for the quarter ended September 30, 2022, as filed with the SEC on November 14, 2022\).](#)
- 10.9# [Windtree's 2011 Long-Term Incentive Plan, as amended \(incorporated by reference to Exhibit 10.1 to Windtree's Current Report on Form 8-K, as filed with the SEC on December 31, 2018\).](#)
- 10.10# [Windtree's 2020 Equity Incentive Plan \(incorporated by reference to Exhibit 10.1 to Windtree's Current Report on Form 8-K, as filed with the SEC on December 31, 2020\).](#)
- 10.11# [Form of Restricted Stock Unit Grant for Employees under Windtree's 2020 Equity Incentive Plan \(incorporated by reference to Exhibit 4.5 To Windtree's Registration Statement on Form S-8, as filed with the SEC on February 12, 2021\).](#)
- 10.12# [Form of Stock Option Grant for Employees under Windtree's 2020 Equity Incentive Plan \(incorporated by reference to Exhibit 4.6 To Windtree's Registration Statement on Form S-8, as filed with the SEC on February 12, 2021\).](#)
- 10.13# [Form of Inducement Award Agreement \(incorporated by reference to Exhibit 4.4 to Windtree's Registration Statement on Form S-8 \(File No. 333-253067\), as filed with the SEC on February 12, 2021\).](#)
- 10.14# [Form of Employee Option Agreement under Windtree's 2011 Long-Term Incentive Plan \(incorporated by reference to Exhibit 10.2 to Windtree's Quarterly Report on Form 10-Q for the quarter ended March 31, 2012, as filed with the SEC on May 15, 2012\).](#)
- 10.15# [Form of Non-Employee Director Option Agreement under Windtree's 2011 Long-Term Incentive Plan \(incorporated by reference to Exhibit 10.10 to Windtree's Form 10-K, as filed with the SEC on April 3, 2020\).](#)

[Table of Contents](#)

- 10.16# [Form of Restricted Stock Unit Award Agreement for Non-Employee Directors under Windtree’s 2011 Long-Term Incentive Plan \(incorporated by reference to Exhibit 10.11 to Windtree’s Annual Report on Form 10-K for the year ended December 31, 2014, as filed with the SEC on March 16, 2015\).](#)
- 10.17# [Form of Restricted Stock Unit Award Agreement for Employees under Windtree’s 2011 Long-Term Incentive Plan\(incorporated by reference to Exhibit 10.14 to Windtree’s Annual Report on Form 10-K for the year ended December 31, 2017, as filed with the SEC on April 17, 2018\).](#)
- 10.18# [Employment Agreement dated February 1, 2016, between Windtree and Craig Fraser \(incorporated by reference to Exhibit 10.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on February 3, 2016\).](#)
- 10.19# [Inducement Stock Option Award Agreement dated February 1, 2016, between Windtree and Craig Fraser \(incorporated by reference to Exhibit 10.3 to Windtree’s Current Report on Form 8-K, as filed with the SEC on February 3, 2016\).](#)
- 10.20# [Amendment dated March 13, 2018, to Employment Agreement dated February 1, 2016, between Windtree and Craig Fraser \(incorporated by reference to Exhibit 10.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on March 16, 2018\).](#)
- 10.21# [Employment Agreement dated December 19, 2014, between Windtree and Steven G. Simonson, M.D. \(incorporated by reference to Exhibit 10.4 to Windtree’s Quarterly Report on Form 10-Q, as filed with the SEC on May 11, 2015\).](#)
- 10.22# [Amendment dated December 29, 2014 to Employment Agreement dated December 19, 2014, effective as of April 1, 2015, between Windtree and Steven G. Simonson, M.D.\(incorporated by reference to Exhibit 10.5 to Windtree’s Quarterly Report on Form 10-Q, as filed with the SEC on May 11, 2015\).](#)
- 10.23# [Amendment dated March 13, 2018, to Employment Agreement dated December 19, 2014 between Windtree and Steven G. Simonson, M.D.\(incorporated by reference to Exhibit 10.3 to Windtree’s Current Report on Form 8-K, as filed with the SEC on March 16, 2018\).](#)
- 10.24# [At The Market Offering Agreement, dated as of September 17, 2020, by and between Windtree Therapeutics, Inc. and Ladenburg Thalmann & Co. Inc. \(incorporated by reference to Exhibit 1.2 to the Windtree’s Registration Statement on Form S-3, as filed with the SEC on September 17, 2020\).](#)
- 10.25# [Form of Indemnification Agreement between Windtree and certain named executive officers and directors \(incorporated by reference to Exhibit 10.4 to Windtree’s Current Report on Form 8-K, as filed with the SEC on February 3, 2016\).](#)
- 10.26 [Form of Indemnification Agreement between Windtree and certain named directors \(incorporated by reference to Exhibit 10.23 to Windtree’s Annual Report on Form 10-K, as filed with the SEC on April 16, 2019\).](#)
- 10.27 [Lease Agreement dated May 26, 2004, and First Amendment to Lease Agreement, dated April 2, 2007, between TR Stone Manor Corp. and Windtree \(incorporated by reference to Exhibits 10.1 and 10.2 to Windtree’s Current Report on Form 8-K, as filed with the SEC on April 6, 2007\).](#)
- 10.28 [Second Amendment to Lease Agreement dated January 3, 2013 between TR Stone Manor Corp. and Windtree \(incorporated by reference to Exhibit 10.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on January 8, 2013\).](#)
- 10.29 [Third Amendment to Lease Agreement dated November 24, 2014 between TR Stone Manor Corp. and Windtree \(incorporated by reference to Exhibit 10.29 to Windtree’s Annual Report on Form 10-K, as filed with the SEC on March 31, 2023\).](#)
- 10.30 [Fourth Amendment to Lease Agreement dated April 29, 2016, between PH Stone Manor LP and Windtree \(incorporated by reference to Exhibit 10.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on May 31, 2016\).](#)
- 10.31 [Fifth Amendment to Lease Agreement dated February 23, 2018, between PH Stone Manor LP and Windtree \(incorporated by reference to Exhibit 10.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on March 1, 2018\).](#)
- 10.32† [Supply Agreement dated December 22, 2010 between Corden Pharma \(formerly Genzyme Pharmaceuticals LLC, now known as Corden Pharma\) and Windtree\(incorporated by reference to Exhibit 10.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on December 29, 2010\).](#)

[Table of Contents](#)

- 10.33 [Exchange and Termination Agreement dated October 27, 2017, between Windtree and Deerfield \(incorporated by reference to Exhibit 10.2 to Windtree’s Current Report on Form 8-K, as filed with the SEC on November 1, 2017\).](#)
- 10.34 [Registration Rights Agreement dated October 27, 2017, between Windtree and LPH Investments Limited \(incorporated by reference to Exhibit 99.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on November 1, 2017\).](#)
- 10.35 [Registration Rights Agreement dated March 30, 2018, between Windtree and LPH II Investments Limited \(incorporated by reference to Exhibit 10.2 to Windtree’s Current Report on Form 8-K, as filed with the SEC on April 4, 2018\).](#)
- 10.36†† [Collaboration Agreement dated as of October 14, 2014, by and between Battelle Memorial Institute and Discovery Laboratories, Inc. \(predecessor-in-interest to Windtree\) \(incorporated by reference to Exhibit 10.1 to Windtree’s Quarterly Report on Form 10-Q for the quarter ended September 30, 2020, as filed with the SEC on November 16, 2020\).](#)
- 10.37 [Payment Restructuring Agreement effective December 7, 2018, between Windtree and Battelle Memorial Institute \(incorporated by reference to Exhibit 10.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on December 7, 2018\).](#)
- 10.38 [Amendment No. 1 dated March 30, 2020 to Payment Restructuring Agreement, effective December 7, 2018, between Windtree and Lee’s Pharmaceutical \(HK\) LTD \(incorporated by reference to Exhibit 10.48 to Windtree’s Registration Statement on Form S-1/A \(File No. 333-236085\), as filed with the SEC on May 6, 2020\).](#)
- 10.39 [Loan Agreement dated October 25, 2018, between CVie Therapeutics, Lee’s Pharmaceutical Holdings Limited, and O-Bank Co., Ltd. \(incorporated by reference to Exhibit 10.34 to Windtree’s Annual Report on Form 10-K, as filed with the SEC on April 16, 2019\).](#)
- 10.40 [Shareholder Loan Agreement dated April 24, 2018, between Lee’s Pharmaceutical International Limited and CVie Therapeutics \(incorporated by reference to Exhibit 10.35 to Windtree’s Annual Report on Form 10-K, as filed with the SEC on April 16, 2019\).](#)
- 10.41 [Shareholder Loan Agreement dated September 20, 2018, between Lee’s Pharmaceutical International Limited and CVie Therapeutics\(incorporated by reference to Exhibit 10.36 to Windtree’s Annual Report on Form 10-K, as filed with the SEC on April 16, 2019\).](#)
- 10.42 [Shareholder Loan Agreement dated October 26, 2018, between Lee’s Pharmaceutical International Limited and CVie Therapeutics \(incorporated by reference to Exhibit 10.37 to Windtree’s Annual Report on Form 10-K, as filed with the SEC on April 16, 2019\).](#)
- 10.43 [Shareholder Loan Agreement dated November 16, 2018, between Lee’s Pharmaceutical International Limited and CVie Therapeutics\(incorporated by reference to Exhibit 10.38 to Windtree’s Annual Report on Form 10-K, as filed with the SEC on April 16, 2019\).](#)
- 10.44 [Merger Agreement dated December 21, 2018, between Windtree, WT Acquisition Corp., and CVie Investments Limited \(incorporated by reference to Exhibit 10.1 to Windtree’s Current Report on Form 8-K, as filed with the SEC on December 21, 2018\).](#)
- 10.45 [Indemnification Letter Agreement dated December 21, 2018, between Windtree and Lee’s Pharmaceutical Holdings Limited\(incorporated by reference to Exhibit 10.2 to Windtree’s Current Report on Form 8-K, as filed with the SEC on December 21, 2018\).](#)
- 10.46 [Securities Purchase Agreement dated December 21, 2018 between Windtree and certain purchasers party thereto\(incorporated by reference to Exhibit 10.3 to Windtree’s Current Report on Form 8-K, as filed with the SEC on December 21, 2018\).](#)
- 10.47 [Registration Rights Agreement dated December 21, 2018 between Windtree and certain purchasers party thereto \(incorporated by reference to Exhibit 10.4 to Windtree’s Current Report on Form 8-K, as filed with the SEC on December 21, 2018\).](#)

[Table of Contents](#)

10.48	Loan Agreement dated October 24, 2019 between Windtree and LPH II Investments Ltd. (incorporated by reference to Exhibit 10.1 to Windtree's Current Report on Form 8-K, as filed with the SEC on October 28, 2019).
10.49	Form of Securities Purchase Agreement dated December 6, 2019 by and among Windtree and the purchasers party thereto (incorporated by reference to Exhibit 10.1 to Windtree's Current Report on Form 8-K, as filed with the SEC on December 9, 2019).
10.50	Form of Registration Rights Agreement dated December 6, 2019 by and among Windtree and the purchasers party thereto (incorporated by reference to Exhibit 10.2 to Windtree's Current Report on Form 8-K, as filed with the SEC on December 9, 2019).
10.51#	Employment Agreement dated March 1, 2020, between Windtree and Eric Curtis (incorporated by reference to Exhibit 10.46 to Windtree's Form 10-K, as filed with the SEC on April 3, 2020).
10.52	Amendment to No. 1 dated February 20, 2020 to the Securities Purchase Agreement dated December 6, 2019 by and among Windtree and the purchasers party thereto(incorporated by reference to Exhibit 10.47 to Windtree's Form 10-K, as filed with the SEC on April 3, 2020).
10.53	Project Financing Agreement, dated August 12, 2020, by and between Windtree and Lee's Pharmaceutical (HK) Ltd. (incorporated by reference to Exhibit 10.4 to Windtree's Quarterly Report on Form 10-Q, as filed with the SEC on November 16, 2020).
10.54#	Employment Agreement by and between Windtree and John Hamill, dated as of July 20, 2020 (incorporated by reference to Exhibit 10.1 to Windtree's Current Report on Form 8-K, as filed with the SEC on July 23, 2020).
10.55#	Employment Agreement by and between Windtree and Diane Carman, dated as of July 1, 2021 (incorporated by reference to Exhibit 10.54 to Windtree's Annual Report on Form 10-K, as filed with the SEC on March 31, 2022).
10.56	Form of Inducement Letter dated January 20, 2023 (incorporated by reference to Exhibit 10.1 to Windtree's Current Report on Form 8-K, as filed with the SEC on January 26, 2023).
10.57	Form of Inducement Letter dated February 21, 2023 (incorporated by reference to Exhibit 10.1 to Windtree's Current Report on Form 8-K, as filed with the SEC on February 22, 2023).
16.1	Letter from Ernst & Young LLP (incorporated by reference to Exhibit 16.1 to Windtree's Current Report on Form 8-K, as filed with the SEC on May 11, 2022).
21.1	Subsidiaries of Windtree (incorporated by reference to Exhibit 21.1 to Windtree's Annual Report on Form 10-K, as filed with the SEC on April 16, 2019).
23.1	Consent of EisnerAmper LLP, independent registered public accounting firm (incorporated by reference to Exhibit 23.1 to Windtree's Annual Report on Form 10-K, as filed with the SEC on March 31, 2023).
23.2	Consent of Ernst & Young LLP, independent registered public accounting firm (incorporated by reference to Exhibit 23.2 to Windtree's Annual Report on Form 10-K, as filed with the SEC on March 31, 2023).
31.1	Certification of the Chief Executive Officer, as required by Section 302 of the Sarbanes-Oxley Act of 2002 (incorporated by reference to Exhibit 31.1 to Windtree's Annual Report on Form 10-K, as filed with the SEC on March 31, 2023).
31.2	Certification of the Chief Financial Officer, as required by Section 302 of the Sarbanes-Oxley Act of 2002 (incorporated by reference to Exhibit 31.2 to Windtree's Annual Report on Form 10-K, as filed with the SEC on March 31, 2023).
31.3*	Certification of the Chief Executive Officer, as required by Section 302 of the Sarbanes-Oxley Act of 2002.
31.4*	Certification of the Chief Financial Officer, as required by Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certifications of the Chief Executive Officer and Chief Financial Officer as required by 18 U.S.C. 1350 (incorporated by reference to Exhibit 32.1 to Windtree's Annual Report on Form 10-K, as filed with the SEC on March 31, 2023).
32.2*	Certifications of the Chief Executive Officer and Chief Financial Officer as required by 18 U.S.C. 1350.
101	The following materials from Windtree's Annual Report on Form 10-K for the fiscal year ended December 31, 2022, formatted in XBRL (Extensible Business Reporting Language): (i) Consolidated Statements of Operations, (ii) Consolidated Balance Sheets, (iii) Consolidated Statements of Cash Flows, (iv) Consolidated Statements of Changes in Shareholders' Equity, and (vi) Notes to Consolidated Financial Statements. (1)
104	Cover Page Interactive Data File (formatted as Inline XBRL)

* Filed herewith.

Compensation Related Contract.

† Confidential treatment received for certain portions of this exhibit.

†† Certain confidential portions have been omitted from this exhibit pursuant to Item 601(b)(10)(iv) of Regulation S-K.

(1) These Interactive Data Files shall not be deemed filed for purposes of Section 11 or 12 of the Securities Act, or Section 18 of the Exchange Act, or otherwise subject to liability under those sections.



SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this Amendment No. 1 to be signed on its behalf by the undersigned, thereunto duly authorized.

WINDTREE THERAPEUTICS, INC.

Date: May 1, 2023

By: /s/ Craig E. Fraser
Craig E. Fraser
Director, President, and Chief Executive Officer

CERTIFICATION

I, Craig E. Fraser, certify that:

1. I have reviewed this Annual Report on Form 10-K/A of Windtree Therapeutics, Inc.; and
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.

Date: May 1, 2023

/s/ Craig E. Fraser

Craig E. Fraser

President and Chief Executive Officer
(Principal Executive Officer)

CERTIFICATION

I, John A. Tattory, certify that:

1. I have reviewed this Annual Report on Form 10-K/A of Windtree Therapeutics, Inc.; and
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.

Date: May 1, 2023

/s/ John A. Tattory
John A. Tattory
Interim Chief Financial Officer
(Principal Financial Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Windtree Therapeutics, Inc. (the "Company") on Form 10-K/A for the year ended December 31, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned officers of the Company certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to such officer's knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 1, 2023

/s/ Craig E. Fraser
Craig E. Fraser
President and Chief Executive Officer
(Principal Executive Officer)

/s/ John A. Tattory
John A. Tattory
Interim Chief Financial Officer
(Principal Financial Officer)