

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

FORM 8-K

CURRENT REPORT

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

March 1, 2018

Date of Report (Date of earliest event reported)

Windtree Therapeutics, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation)

000-26422

(Commission File Number)

94-3171943

(IRS Employer Identification Number)

2600 Kelly Road, Suite 100

Warrington, Pennsylvania 18976

(Address of principal executive offices)

(215) 488-9300

(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 **Entry into a Material Definitive Agreement.**

Effective as of March 1, 2018 (the “**Effective Date**”), Windtree Therapeutics, Inc. (the “**Company**”) entered into a Loan Agreement (“**Loan Agreement**”) with LPH Investments Ltd., a Cayman Islands company organized and existing under the laws of Cayman Islands (“**LPH**”), and a wholly-owned subsidiary of Lee’s Pharmaceutical Holdings Limited. Under the Loan Agreement, LPH agreed to lend the Company \$1.0 million (the “**Loan**”) to support the Company’s AEROSURF® development activities and sustain its operations while the parties seek to identify and advance one or more potential strategic initiatives (“**Funding Event**,” as further defined in the Loan Agreement). The Loan, which was funded in a single installment by wire transfer on March 2, 2018, will accrue interest at a rate of 6% per annum and matures upon the earlier of the closing date of the Funding Event or December 31, 2018. The parties expect that, upon the closing of the Funding Event, the outstanding principal balance of the Loan will be applied in full satisfaction of a like amount of cash consideration payable by LPH for its participation in such Funding Event, and the Loan will be discharged in full thereby. At this time, the Company does not have an alternative source of funding available to repay the loan. Accordingly, if it is unable to complete the planned Funding Event for any reason, it likely will be forced to curtail some or all of its activities, including the AEROSURF development program and, ultimately, may be compelled to cease operations.

The Company also entered into a Security Agreement with LPH (the “**Security Agreement**”), pursuant to which, as security for the Company’s repayment of its obligations under the Loan Agreement, the Company has granted to LPH a security interest in substantially all of the Company’s assets.

The foregoing descriptions of the Loan Agreement and the Security Agreement do not purport to be complete and are qualified in their entirety by reference to the agreements, copies of which are attached as Exhibit 10.1 and Exhibit 10.2 to this Current Report on Form 8-K. The Loan Agreement and Security Agreement are being filed to provide investors and the Company’s stockholders with information regarding the terms thereof and in accordance with applicable rules and regulations of the Securities and Exchange Commission (“**Commission**”). Pursuant to the Loan Agreement and Security Agreement, each of the parties thereto made customary representations, warranties and covenants, which were made by the parties to and solely for the benefit of each other and any expressly intended third party beneficiaries in the context of all of the terms and conditions of the agreements and in the context of the specific relationship between the parties. Accordingly, investors and stockholders should not rely on the representations, warranties and covenants. Furthermore, investors and stockholders should not rely on the representations, warranties and covenants as characterizations of the actual state of facts or continuing intentions of the parties, since they were only made as of the date of the Loan Agreement and Security Agreement. Information concerning the subject matter of such representations, warranties and covenants may change, which subsequent information may or may not be fully reflected in the Company’s reports or other filings with the Commission.

Item 2.03 **Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information set forth in Item 1.01 above is incorporated into this Item 2.03 by reference.

Item 9.01. **Financial Statements and Exhibits.**

- (d) Exhibits
 - 10.1 [Loan Agreement between the Company and LPH Investments Ltd. dated as of March 1, 2018.](#)
 - 10.2 [Security Agreement between the Company and LPH Investments Ltd. dated as of March 1, 2018.](#)
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Cautionary Note Regarding Forward-looking Statements:

To the extent that statements in this Current Report on Form 8-K are not strictly historical, including statements as to business strategy, outlook, objectives, future milestones, plans, intentions, goals, future financial conditions, future collaboration agreements, the success of the Company's product development or otherwise as to future events, such statements are forward-looking, and are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. The forward-looking statements contained in this Current Report are subject to certain risks and uncertainties that could cause actual results to differ materially from the statements made. Such risks and others are further described in the Company's filings with the Securities and Exchange Commission including the most recent reports on Forms 10-K, 10-Q and 8-K, and any amendments thereto.

SIGNATURES

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

Windtree Therapeutics, Inc.

By: /s/ Craig Fraser
Craig Fraser
President and Chief Executive Officer

Date: March 5, 2018

LOAN AGREEMENT

This Loan Agreement (this "Loan Agreement"), dated as of March 1, 2018, is entered into between Windtree Therapeutics, Inc., a Delaware corporation with its principal offices at 2600 Kelly Rd., Suite 100, Warrington, PA 18976 ("Borrower"), and LPH Investments Ltd., a Cayman Islands company organized and existing under the laws of Cayman Islands with its principal offices at Unit 110-111, Bio-Informatics Centre, No. 2 Science Park West Avenue, Hong Kong Science Park, Shatin, Hong Kong ("Lender").

RECITALS

WHEREAS, effective October 27th, 2017, LPH Investments Limited ("LPH"), a wholly-owned subsidiary of Lee's Pharmaceutical Holdings Limited ("Lee's"), invested \$10,000,000 (the "Investment") in Borrower and acquired 2,311,604 shares of Borrower's common stock (the "Shares"), at a price of \$4.326 per share, following which purchase Lee's beneficially owned 73% of Borrower's issued and outstanding shares of common stock (the "Common Stock");

WHEREAS, Lender has agreed to provide Borrower financial support while the parties pursue potential strategic initiatives intended to provide Borrower sufficient capital to support its continuing operations, including with respect to the AEROSURF® clinical development program and that certain License Agreement dated as of June 12, 2017, by and between Borrower and Lender, pursuant to which Borrower, as Licensor thereunder, has licensed to certain Lender's affiliates, as Licensee thereunder, certain rights with respect to Borrower's technology with the aim of advancing the Development, registration and Commercialization of the Surfaxin Product, Surfaxin LS®, Aerosurf®, and any other pharmaceutical composition containing synthetic KL4 Surfactant in the Licensed Territory (as such terms are defined in the License Agreement);

WHEREAS, to provide sufficient time for the parties to identify and advance the potential strategic initiatives, including one or more potential strategic transactions or equity offerings resulting in minimum proceeds to Borrower of at least \$9 Million Dollars in cash (after taking into account the funds advanced under this Agreement and the \$1.5 million loan under the Loan Agreement dated January 10, 2018, the "Funding Event"), Lender has agreed to advance funds to Borrower on the terms provided in this Loan Agreement; and

WHEREAS, to secure its obligations to Lender hereunder and under that certain loan agreement by and between Borrower and Lender, dated as of January 10, 2018 (the "First Loan Agreement"), Borrower wishes to grant Lender a continuing first priority lien and security interest in all assets of Borrower.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

“Contractual Obligation” means, as to any entity, any provision of any security issued by such entity or of any agreement, instrument or other undertaking to which such entity is a party or by which it or any of its property is bound.

“Loan” means the loan made by Lender to Borrower in the amount of One Million Dollars (\$1,000,000), which amount shall be disbursed in cash no later than March 2, 2018.

“Encumbrance” has the meaning set forth in Section 2.5.

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect on, the operations, business, properties, liabilities (actual or contingent), or condition (financial or otherwise) of Borrower; or (b) a material adverse effect on (i) the ability of Borrower to perform its obligations under this Loan Agreement, (ii) the legality, validity, binding effect or enforceability against Borrower of any loan agreement to which it is a party or (iii) the rights, remedies and benefits available to, or conferred upon Lender under this Loan Agreement.

“Maturity Date” means the earlier of (i) unless otherwise agreed, the closing date (the “Closing Date”) of the Funding Event, except that, to the extent that the Funding Event is completed through a series of transactions, then the Maturity Date shall be the last Closing Date to occur with respect to the Funding Event, and (ii) December 31, 2018.

ARTICLE II

TERM LOAN

2.1 Agreement to Make Loan. On the terms and subject to the conditions of this Loan Agreement, Lender agrees to fund the Loan to Borrower in cash no later than March 2, 2018. The proceeds of the Loan shall be paid by wire transfer to an account designated in writing by Borrower.

2.2 Repayment Terms. The entire unpaid principal balance of the Loan, together with accrued interest thereon, shall be due and payable on the Maturity Date. For the avoidance of doubt, upon the occurrence of the Funding Event, Borrower is obligated to repay the entire outstanding principal amount of the Loan plus accrued and unpaid interest thereon, if the same has not been repaid in full earlier.

2.3 Interest Rate. The Loan shall bear interest on the outstanding principal amount of the Loan at a rate per annum equal to six percent (6%) (“the Contracted Interest Rate”). If Borrower fails to repay the principal amount of the Loan on the due date, Lender shall charge Borrower interest at a rate equal to the lower of 30% above the Contracted Interest Rate (referred to as the “Defaulted Interest Rate”) or the maximum interest rate permitted by law on overdue sums from and including the due date to the actual payment date. If Borrower fails to repay the accrued interest and default interest on the due date, the Defaulted Interest Rate shall be calculated monthly on the interest payment date.

2.4 Prepayment. Borrower may, at its option, prepay the Loan, in whole or in part, prior to the Maturity Date. Each prepayment shall include interest on the amount prepaid to the date of prepayment.

2.5 Negative Pledge. Borrower shall not, without the prior written consent of the Lender, which consent shall not be unreasonably withheld or delayed, create, suffer to exist, or permit to subsist, any mortgage, pledge, lien, charge, privilege, priority, encumbrance or other security interest of any kind or nature whatsoever and howsoever arising (referred to as the "Encumbrance") upon all or any part of its present or future undertakings, assets, or revenues, except for the following ("Permitted Encumbrances"):

(a) any such Encumbrance created in the ordinary course of the Borrower's development activities and business transactions, including without limitation,

(i) with respect to accounts maintained in the ordinary course and held at financial institutions to secure standard fees for services charged by such institutions, including liens of a collection bank arising in the ordinary course;

(ii) obligations in respect of purchase money financing, capital lease obligations and equipment financing facilities covering existing and newly-acquired equipment, including for the acquisition, installation, qualification and validation of such equipment;

(iii) liens in favor of landlords under real property leases granted by Borrower, and letter of credit deposits related thereto;

(iv) liens related to workers' compensation, unemployment insurance and other social security legislation;

(v) liens arising under leases, licenses or subleases granted to others not interfering in any material respect with the business of Borrower; and

(vi) and liens on advances in favor of a vendor providing goods or services;

(b) any Encumbrance in favor of Lender;

(c) statutory liens created by operation of law and Encumbrances arising in connection with outstanding contractual obligations; and

(d) liens for taxes, assessments or governmental charges or levies.

2.6 Representations and Warranties. Borrower represents and warrants to Lender that:

(a) No Encumbrance. All of the Borrower's assets are free and clear of any Encumbrance as of the date hereof except for Permitted Encumbrances;

(b) Ownership of Properties. Borrower has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title that, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect; and

(c) Litigation. There are no actions, suits, proceedings, claims, disputes or investigations pending or, to the knowledge of Borrower, threatened, at law, in equity, in arbitration or before any governmental authority, by or against Borrower or against any of its properties or revenues that (a) either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect or (b) purport to affect or pertain to this Loan Agreement or any other loan agreement or any of the transactions contemplated hereby.

2.7 Security Interest. Borrower hereby agrees to grant to Lender a continuing first priority lien and security interest in all of Borrower's assets to secure its obligations hereunder and under the First Loan Agreement. The grant of such continuing first priority lien and security interest shall be memorialized in and evidenced by a security agreement to be entered into by Borrower and Lender (the "Security Agreement").

ARTICLE III

DEFAULTS AND REMEDIES

3.1 Events of Default. Any one or more of the following events shall constitute an event of default hereunder (an "Event of Default"):

a) Borrower fails to make any required payment required on the Loan within five (5) days after Borrower's receipt of written notice of default from Lender;

b) Borrower breaches any representation, warranty, covenant or pledge made by Borrower in this Loan Agreement or otherwise in connection with the Loan;

c) if, pursuant to the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors (a "Bankruptcy Law"), Borrower shall (i) commence a voluntary case or proceeding; (ii) consent to the entry of an order for relief against it in an involuntary case; (iii) consent to the appointment of a trustee, receiver, assignee, liquidator or similar official; (iv) make an assignment for the benefit of its creditors; or (v) admit in writing its inability to pay its debts as they become due; or

d) if a court enters an order or decree under any Bankruptcy Law that (i) is for relief against Borrower in an involuntary case, (ii) appoints a trustee, receiver, assignee, liquidator or similar official for Borrower or substantially all of Borrower's properties, or (iii) orders the liquidation of the Borrower.

3.2 Remedies. Upon the occurrence of an Event of Default, Lender, at its option, may take one or more of the following remedial steps:

a) Upon notice to Borrower, the entire principal amount of the Loan shall become immediately due and payable, without presentment, demand for payment, protest, notice of nonpayment or protest, notice of dishonor or any other notice or demand, all of which are hereby expressly waived;

b) Take any action at law or in equity to collect from Borrower the payments then due and thereafter to become due under the Loan or to enforce performance and observance of any obligation or agreement of Borrower under the Loan; and

c) Resort to any remedy available to Lender under the Security Agreement.

3.3 No Remedy Exclusive. No remedy of Lender is intended to be exclusive of any other available remedy, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or by applicable law. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof.

ARTICLE IV

MISCELLANEOUS

4.1 Notice. Any notice to a party to this Agreement shall be in writing and sent to the respective addresses set forth in the introductory paragraph of this Agreement (or such other address as a party shall designate in writing) by certified mail, return receipt requested, or by nationally recognized overnight courier. All notices shall be effective upon the earlier of (a) three days after being sent or (b) receipt.

4.2 Successors and Assigns. This Loan Agreement contains the entire agreement of the parties with respect to its subject matter and may not be amended except by a written instrument signed by the party to be charged with such amendment. This Loan Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties, except that the Borrower shall not have the right to assign its rights or obligations hereunder.

4.3 Judicial Proceedings. This Loan Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to conflict of laws principles. All claims or actions arising from this Loan Agreement shall be litigated in the federal courts for the Southern District of New York or the state courts located in the county of New York. Borrower and Lender hereby irrevocably submit to the jurisdiction of such courts and waive any claim that any action brought in such a court has been brought in an inconvenient forum

4.4 Captions. The section headings of this Loan Agreement are for reference purposes only and shall not affect the interpretation of this Agreement.

4.5 Severability. If any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision.

4.6 Waiver of Jury Trial. **BORROWER AND LENDER HEREBY WAIVE ALL RIGHTS TO DEMAND A JURY TRIAL FOR ANY ACTIONS ARISING FROM THIS LOAN AGREEMENT.**

4.7 AMENDMENT OF THE FIRST LOAN AGREEMENT. BORROWER AND LENDER HEREBY AMEND THE FIRST LOAN AGREEMENT IN ALL RELEVANT RESPECTS SUCH THAT, AFTER GIVING EFFECTS TO SUCH AMENDMENTS, THE FIRST LOAN AGREEMENT WILL BE CONFORMED TO THE TERMS OF THIS LOAN AGREEMENT IN ALL MATERIAL RESPECTS EXCEPT FOR THE PRINCIPAL AMOUNT OF THE LOAN THEREUNDER.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THIS LOAN AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORIZED OFFICERS AS OF THE DATE FIRST WRITTEN ABOVE.

WINDTREE THERAPEUTICS, INC.

By: /s/ Craig Fraser
Name: Craig Fraser
Title: President and Chief Executive Officer

LPH INVESTMENTS LTD.

By: /s/ Benjamin Li, Ph.D.
Name: Benjamin Li, Ph.D.
Title: Chief Executive Officer

SECURITY AGREEMENT

This Security Agreement, dated as of March 1, 2018 (as amended, supplemented or otherwise modified from time to time in accordance with the provisions hereof, this “**Agreement**”), made by and among Windtree Therapeutics, Inc., a Delaware corporation with its principal offices at 2600 Kelly Rd., Suite 100, Warrington, PA 18976 (the “**Grantor**”), in favor of LPH Investments Ltd., a Cayman Islands company organized and existing under the laws of Cayman Islands with its principal offices at Unit 110-111, Bio-Informatics Centre, No. 2 Science Park West Avenue, Hong Kong Science Park, Shatin, Hong Kong (the “**Secured Party**”).

WHEREAS, the Grantor and the Secured Party have entered into (i) a loan agreement (the “**First Loan Agreement**”) dated January 10, 2018, pursuant to which the Secured Party, as lender, subject to the terms and conditions contained therein, has agreed to make a loan to the Grantor, as borrower, in an aggregate principal amount of One Million and Five Hundred Thousand Dollars (\$1,500,000) (the “**First Loan**”), and (ii) a second loan agreement (the “**Second Loan Agreement**”, and together with the First Loan Agreement, as the same may be amended from time to time, collectively, the “**Loan Agreements**”) dated the date hereof, pursuant to which the Secured Party, as lender, subject to the terms and conditions contained therein, has agreed to make a loan to the Grantor, as borrower, in an aggregate principal amount of One Million Dollars (\$1,000,000) (the “**Second Loan**”, and together with the First Loan, collectively, the “**Loans**”). Capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the applicable Loan Agreements;

WHEREAS, this Agreement is given by the Grantor in favor of the Secured Party to secure the payment and performance of all of the Secured Obligations; and

WHEREAS, in order to fully secure the Grantor’s obligations under the Loan Agreements, the Secured Party has requested the Grantor to execute this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions.

(a) Unless otherwise specified herein, all references to Sections and Schedules herein are to Sections and Schedules of this Agreement.

(b) Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the meanings assigned to them in the UCC. However, if a term is defined in Article 9 of the UCC differently than in another Article of the UCC, the term has the meaning specified in Article 9.

(c) For purposes of this Agreement, the following terms shall have the following meanings:

“**Collateral**” has the meaning set forth in Section 2.

“**Copyrights**” means, collectively, with respect to the Grantor, all copyrights (whether statutory or common law, whether established or registered in the United States or any other country or any political subdivision thereof, whether registered or unregistered and whether published or unpublished), all tangible embodiments of the foregoing and all copyright registrations and applications made by the Grantor, in each case, whether now owned or hereafter created or acquired by or assigned to the Grantor, together with any and all (i) rights and privileges arising under applicable law and international treaties and conventions with respect to the Grantor’s use of such copyrights, (ii) reissues, renewals, continuations and extensions thereof and amendments thereto, (iii) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable with respect thereto, including damages and payments for past, present or future infringements thereof, (iv) rights corresponding thereto throughout the world and (v) rights to sue for past, present or future infringements thereof.

“**Event of Default**” has the meaning set forth in the Loan Agreements.

“**First Priority**” means, with respect to any lien and security interest purported to be created in any Collateral pursuant to this Agreement, such lien and security interest is the most senior lien to which such Collateral is subject (subject only to liens permitted under the Loan Agreements).

“**Intellectual Property Collateral**” means, collectively, the Patents, Trademarks (excluding only United States intent-to-use Trademark applications to the extent that and solely during the period in which the grant of a security interest therein would impair, under applicable federal law, the registrability of such applications or the validity or enforceability of registrations issuing from such applications), Copyrights, Trade Secrets, Intellectual Property Licenses and all other industrial, intangible and intellectual property of any type, including mask works and industrial designs.

“**Intellectual Property Licenses**” means, collectively, with respect to the Grantor, all license and distribution agreements with, and covenants not to sue, any other party with respect to any Patent, Trademark, Copyright or Trade Secret or any other patent, trademark, copyright or trade secret, whether the Grantor is a licensor or licensee, distributor or distributee under any such license or distribution agreement, together with any and all (i) renewals, extensions, supplements and continuations thereof, (ii) income, fees, royalties, damages, claims and payments now and hereafter due and/or payable thereunder and with respect thereto including damages and payments for past, present or future infringements or violations thereof, (iii) rights to sue for past, present and future infringements or violations thereof and (iv) other rights to use, exploit or practice any or all of the Patents, Trademarks, Copyrights or Trade Secrets or any other patent, trademark, copyright or trade secret.

“**Patents**” means, collectively, all patents issued or assigned to, and all patent applications and registrations made by (whether issued, established or registered or recorded in the United States or any other country or any political subdivision thereof), the Grantor including all tangible embodiments of the foregoing, together with any and all (i) rights and privileges arising under applicable law and international treaties and conventions with respect to the Grantor’s use of any patents, (ii) inventions and improvements described and claimed therein, (iii) reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof and amendments thereto, (iv) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable thereunder and with respect thereto including damages and payments for past, present or future infringements thereof, (v) rights corresponding thereto throughout the world and (vi) rights to sue for past, present or future infringements thereof.

“**Proceeds**” means “proceeds” as such term is defined in section 9-102 of the UCC and, in any event, shall include, without limitation, all dividends or other income from the Collateral, collections thereon or distributions with respect thereto.

“**Secured Obligations**” has the meaning set forth in Section 3.

“**Trade Secrets**” means, collectively, with respect to the Grantor, all know-how, trade secrets, manufacturing and production processes and techniques, inventions, research and development information, technical, marketing, financial and business data and databases, pricing and cost information, business and marketing plans, customer and supplier lists and information, all other confidential and proprietary information and all tangible embodiments of the foregoing, together with any and all (i) rights and privileges arising under applicable law and international treaties and conventions with respect to such trade secrets, (ii) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable with respect thereto including damages and payments for past, present or future misappropriations thereof, (iii) rights corresponding thereto throughout the world and (iv) rights to sue for past, present or future misappropriations thereof.

“**Trademarks**” means, collectively, with respect to the Grantor, all trademarks (including service marks), slogans, logos, symbols, certification marks, collective marks, trade dress, uniform resource locators (URL’s), domain names, corporate names and trade names, whether statutory or common law, whether registered or unregistered and whether established or registered in the United States or any other country or any political subdivision thereof, that are owned by or assigned to the Grantor, all registrations and applications for the foregoing and all tangible embodiments of the foregoing, together with, in each case, the goodwill symbolized thereby and any and all (i) rights and privileges arising under applicable law and international treaties and conventions with respect to the Grantor’s use of any trademarks, (ii) reissues, continuations, extensions and renewals thereof and amendments thereto, (iii) income, fees, royalties, damages and payments now and hereafter due and/or payable thereunder and with respect thereto, including damages, claims and payments for past, present or future infringements thereof, (iv) rights corresponding thereto throughout the world and (v) rights to sue for past, present and future infringements thereof.

“**UCC**” means the Uniform Commercial Code as in effect from time to time in the State of Delaware or, when the laws of any other state govern the method or manner of the perfection or enforcement of any security interest in any of the Collateral, the Uniform Commercial Code as in effect from time to time in such state.

2. Grant of Security Interest. The Grantor hereby pledges and grants to the Secured Party, and hereby creates a continuing First Priority lien on and security interest in and to, all of the right, title and interest of the Grantor in, to and under the following property, wherever located, and whether now existing or hereafter arising or acquired from time to time (collectively, the “**Collateral**”):

(a) all personal property of every kind and nature including all accounts (including health-care-insurance receivables), goods (including inventory and equipment), documents (including, if applicable, electronic documents), instruments, promissory notes, chattel paper (whether tangible or electronic), letters of credit, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), securities and all other investment property, general intangibles (including all payment intangibles), money, deposit accounts, and any other contract rights or rights to the payment of money;

(b) all Intellectual Property Collateral; and

(c) all Proceeds and products of each of the foregoing, all books and records relating to the foregoing, all supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to the Grantor from time to time with respect to any of the foregoing.

3. Secured Obligations. The Collateral secures the due and prompt payment and performance of:

(a) the obligations of the Grantor from time to time arising under the Loan Agreements, this Agreement or otherwise with respect to the due and prompt payment of (i) the principal of and premium, if any, and interest on the Loans (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and (ii) all other monetary obligations, including fees, costs, attorneys’ fees and disbursements, reimbursement obligations, contract causes of action, expenses and indemnities, whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Grantor under or in respect of the Loan Agreements and this Agreement; and

(b) all other covenants, duties, debts, obligations and liabilities of any kind of the Grantor under or in respect of the Loan Agreements, this Agreement or any other document made, delivered or given in connection with any of the foregoing, in each case whether evidenced by a note or other writing, whether allowed in any bankruptcy, insolvency, receivership or other similar proceeding, whether arising from an extension of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, fixed or otherwise (all such obligations, covenants, duties, debts, liabilities, sums and expenses set forth in Section 3 being herein collectively called the “**Secured Obligations**”).

4. Perfection of Security Interest and Further Assurances.

(a) The Grantor shall, from time to time, as may be required by the Secured Party with respect to all Collateral, immediately take all actions as may be requested by the Secured Party to perfect the security interest of the Secured Party in the Collateral, including, without limitation, with respect to all Collateral over which control may be obtained within the meaning of sections 8-106, 9-104, 9-105, 9-106 and 9-107 of the UCC, section 201 of the federal Electronic Signatures in Global and National Commerce Act and, as the case may be, section 16 of the Uniform Electronic Transactions Act, as applicable, the Grantor shall immediately take all actions as may reasonably be requested from time to time by the Secured Party so that control of such Collateral is obtained and at all times held by the Secured Party. All of the foregoing shall be at the sole cost and expense of the Grantor.

(b) The Grantor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any relevant jurisdiction any financing statements and amendments thereto that contain the information required by Article 9 of the UCC of each applicable jurisdiction for the filing of any financing statement or amendment relating to the Collateral, including any financing or continuation statements or other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the security interest granted by the Grantor hereunder, without the signature of the Grantor where permitted by law, including the filing of a financing statement describing the Collateral as all assets now owned or hereafter acquired by the Grantor, or words of similar effect. The Grantor agrees to provide all information required by the Secured Party pursuant to this Section promptly to the Secured Party upon request.

(c) If the Grantor shall at any time hold or acquire any certificated securities, promissory notes, tangible chattel paper, negotiable documents or warehouse receipts relating to the Collateral, the Grantor shall immediately endorse, assign and deliver the same to the Secured Party, accompanied by such instruments of transfer or assignment duly executed in blank as the Secured Party may from time to time specify.

(d) If the Grantor shall at any time hold or acquire a commercial tort claim, the Grantor shall immediately notify the Secured Party in a writing signed by the Grantor of the particulars thereof and grant to the Secured Party in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance satisfactory to the Secured Party.

(e) If any Collateral is at any time in the possession of a bailee, the Grantor shall promptly notify the Secured Party thereof and, at the Secured Party's request and option, shall promptly obtain an acknowledgment from the bailee, in form and substance satisfactory to the Secured Party, that the bailee holds such Collateral for the benefit of the Secured Party and the bailee agrees to comply, without further consent of the Grantor, at any time with instructions of the Secured Party as to such Collateral.

(f) The Grantor agrees that at any time and from time to time, at the expense of the Grantor, the Grantor will promptly execute and deliver all further instruments and documents, obtain such agreements from third parties, and take all further action, that may be necessary or desirable, or that the Secured Party may request, in order to create and/or maintain the validity, perfection or priority of and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder or under any other agreement with respect to any Collateral.

5. Representations and Warranties. The Grantor represents and warrants as follows:

(a) It has previously provided to the Secured Party information relating to the Grantor's (i) exact legal name, (ii) type of organization and jurisdiction, and (iii) place of business (or, if more than one, its chief executive office), and its mailing address, and all such information relating to the Grantor is accurate and complete.

(b) All information provided by the Grantor to the Secured Party relating to the Collateral is accurate and complete.

(c) The Collateral consisting of securities have been duly authorized and validly issued, and are fully paid and non-assessable and subject to no options to purchase or similar rights. The Grantor has at all times operated its business in substantial compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended, and with all applicable provisions of federal, state and local statutes and ordinances dealing with the control, shipment, storage or disposal of hazardous materials or substances.

(d) At the time the Collateral becomes subject to the lien and security interest created by this Agreement, with the exception of Permitted Encumbrances set forth in the Loan Agreement, the Grantor will be the sole, direct, legal and beneficial owner thereof, free and clear of any lien, security interest, encumbrance, claim, option or right of others except for the security interest created by this Agreement and other liens permitted by the Loan Agreements.

(e) The pledge of the Collateral pursuant to this Agreement creates a valid and perfected First Priority security interest in the Collateral, with the exception of Permitted Encumbrances set forth in the Loan Agreement, securing the payment and performance when due of the Secured Obligations.

(f) It has full power, authority and legal right to borrow the Loans and pledge the Collateral pursuant to this Agreement.

(g) Each of this Agreement and the Loan Agreements has been duly authorized, executed and delivered by the Grantor and constitutes a legal, valid and binding obligation of the Grantor enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and subject to equitable principles (regardless of whether enforcement is sought in equity or at law).

(h) No authorization, approval, or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the borrowing of the Loans and the pledge by the Grantor of the Collateral pursuant to this Agreement or for the execution and delivery of the Loan Agreements and this Agreement by the Grantor or the performance by the Grantor of its obligations thereunder.

(i) The execution and delivery of the Loan Agreements and this Agreement by the Grantor and the performance by the Grantor of its obligations thereunder, will not violate any provision of any applicable law or regulation or any order, judgment, writ, award or decree of any court, arbitrator or governmental authority, domestic or foreign, applicable to the Grantor or any of its property, or the organizational or governing documents of the Grantor or any agreement or instrument to which the Grantor is party or by which it or its property is bound, except for such violations that individually or in the aggregate would not have a material adverse effect.

(j) The Grantor has taken all action required on its part for control (as defined in sections 8-106, 9-104, 9-105, 9-106 and 9-107 of the UCC, section 201 of the federal Electronic Signatures in Global and National Commerce Act and, as the case may be, section 16 of the Uniform Electronic Transactions Act, as applicable) to have been obtained by the Secured Party over all Collateral with respect to which such control may be obtained pursuant to the UCC. No person other than the Secured Party has control or possession of all or any part of the Collateral.

6. Voting, Distributions and Receivables.

(a) The Secured Party agrees that unless an Event of Default shall have occurred and be continuing, the Grantor may, to the extent the Grantor has such right as a holder of the Collateral consisting of securities, other equity interests or indebtedness owed by any obligor, vote and give consents, ratifications and waivers with respect thereto, except to the extent that, in the Secured Party's reasonable judgment, any such vote, consent, ratification or waiver would detract from the value thereof as Collateral or which would be inconsistent with or result in any violation of any provision of the Loan Agreements or this Agreement, and from time to time, upon request from the Grantor, the Secured Party shall deliver to the Grantor suitable proxies so that the Grantor may cast such votes, consents, ratifications and waivers.

(b) The Secured Party agrees that the Grantor may, unless an Event of Default shall have occurred and be continuing, receive and retain all dividends and other distributions with respect to the Collateral consisting of securities, other equity interests or indebtedness owed by any obligor.

(c) If any Event of Default shall have occurred and be continuing, the Secured Party may, or at the request and option of the Secured Party the Grantor shall, notify account debtors and other persons obligated on any of the Collateral of the security interest of the Secured Party in any account, chattel paper, general intangible, instrument or other Collateral and that payment thereof is to be made directly to the Secured Party.

7. Covenants. The Grantor covenants as follows:

(a) The Grantor will not, without providing at least 30 days' prior written notice to the Secured Party, change its legal name, identity, type of organization, jurisdiction of organization, corporate structure, location of its chief executive office or its principal place of business or its organizational identification number. The Grantor will, prior to any change described in the preceding sentence, take all actions reasonably requested by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(b) The Collateral will be kept at those locations as is required in the Grantor's ordinary course of business and the Grantor will not remove the Collateral from such locations without providing at least 30 days' prior written notice to the Secured Party. The Grantor will, prior to any change described in the preceding sentence, take all actions reasonably required by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(c) The Grantor shall, at its own cost and expense, defend title to the Collateral and the First Priority lien and security interest of the Secured Party therein against the claim of any person claiming against or through the Grantor, except such claims arising in connection with Permitted Encumbrances set forth in the Loan Agreements, and shall maintain and preserve such perfected First Priority security interest for so long as this Agreement shall remain in effect.

(d) The Grantor will not sell, offer to sell, dispose of, convey, assign or otherwise transfer, grant any option with respect to, restrict, or grant, create, permit or suffer to exist any mortgage, pledge, lien, security interest, option, right of first offer, encumbrance or other restriction or limitation of any nature whatsoever on, any of the Collateral or any interest therein except as expressly provided for in the Loan Agreements herein or with the prior written consent of the Secured Party.

(e) The Grantor will keep the Collateral in good order and repair and will not use the same in violation of law or any policy of insurance thereon. The Grantor will permit the Secured Party, or its designee, to inspect the Collateral at any reasonable time, wherever located.

(f) The Grantor will pay promptly when due all taxes, assessments, governmental charges, and levies upon the Collateral or incurred in connection with the use or operation of the Collateral or incurred in connection with this Agreement.

(g) The Grantor will continue to operate its business in compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended, and with all applicable provisions of federal, state and local statutes and ordinances dealing with the control, shipment, storage or disposal of hazardous materials or substances.

8. Secured Party Appointed Attorney-in-Fact. The Grantor hereby appoints the Secured Party the Grantor's attorney-in-fact, with full authority in the place and stead of the Grantor and in the name of the Grantor or otherwise, from time to time during the continuance of an Event of Default in the Secured Party's discretion to take any action and to execute any instrument which the Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement (but the Secured Party shall not be obligated to and shall have no liability to the Grantor or any third party for failure to do so or take action). This appointment, being coupled with an interest, shall be irrevocable. The Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof.

9. Secured Party May Perform. If the Grantor fails to perform any obligation contained in this Agreement, the Secured Party may itself perform, or cause performance of, such obligation, and the expenses of the Secured Party incurred in connection therewith shall be payable by the Grantor; provided that the Secured Party shall not be required to perform or discharge any obligation of the Grantor.

10. Reasonable Care. The Secured Party shall have no duty with respect to the care and preservation of the Collateral beyond the exercise of reasonable care. The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which the Secured Party accords its own property, it being understood that the Secured Party shall not have any responsibility for (a) ascertaining or taking action with respect to any claims, the nature or sufficiency of any payment or performance by any party under or pursuant to any agreement relating to the Collateral or other matters relative to any Collateral, whether or not the Secured Party has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any parties with respect to any Collateral. Nothing set forth in this Agreement, nor the exercise by the Secured Party of any of the rights and remedies hereunder, shall relieve the Grantor from the performance of any obligation on the Grantor's part to be performed or observed in respect of any of the Collateral.

11. Remedies Upon Default.

(a) If any Event of Default shall have occurred and be continuing, the Secured Party, without any other notice to or demand upon the Grantor, may assert all rights and remedies of a secured party under the UCC or other applicable law, including, without limitation, the right to take possession of, hold, collect, sell, lease, deliver, grant options to purchase or otherwise retain, liquidate or dispose of all or any portion of the Collateral. If notice prior to disposition of the Collateral or any portion thereof is necessary under applicable law, written notice mailed to the Grantor at its notice address as provided in Section 15 hereof ten days prior to the date of such disposition shall constitute reasonable notice, but notice given in any other reasonable manner shall be sufficient. So long as the sale of the Collateral is made in a commercially reasonable manner, the Secured Party may sell such Collateral on such terms and to such purchaser(s) as the Secured Party in its absolute discretion may choose, without assuming any credit risk and without any obligation to advertise or give notice of any kind other than that necessary under applicable law. Without precluding any other methods of sale, the sale of the Collateral or any portion thereof shall have been made in a commercially reasonable manner if conducted in conformity with reasonable commercial practices of creditors disposing of similar property. At any sale of the Collateral, if permitted by applicable law, the Secured Party may be the purchaser, licensee, assignee or recipient of the Collateral or any part thereof and shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold, assigned or licensed at such sale, to use and apply any of the Secured Obligations as a credit on account of the purchase price of the Collateral or any part thereof payable at such sale. To the extent permitted by applicable law, the Grantor waives all claims, damages and demands it may acquire against the Secured Party arising out of the exercise by it of any rights hereunder. The Grantor hereby waives and releases to the fullest extent permitted by law any right or equity of redemption with respect to the Collateral, whether before or after sale hereunder, and all rights, if any, of marshalling the Collateral and any other security for the Secured Obligations or otherwise. At any such sale, unless prohibited by applicable law, the Secured Party or any custodian may bid for and purchase all or any part of the Collateral so sold free from any such right or equity of redemption. Neither the Secured Party nor any custodian shall be liable for failure to collect or realize upon any or all of the Collateral or for any delay in so doing, nor shall it be under any obligation to take any action whatsoever with regard thereto. The Grantor agrees that it would not be commercially unreasonable for the Secured Party to dispose of the Collateral or any portion thereof by utilizing internet sites that provide for the auction of assets of the type included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets. The Secured Party shall not be obligated to clean up or otherwise prepare the Collateral for sale.

(b) If any Event of Default shall have occurred and be continuing, all rights of the Grantor to (i) exercise the voting and other consensual rights it would otherwise be entitled to exercise pursuant to Section 6(a) and (ii) receive the dividends and other distributions which it would otherwise be entitled to receive and retain pursuant to Section 6(b), shall immediately cease, and all such rights shall thereupon become vested in the Secured Party, which shall have the sole right to exercise such voting and other consensual rights and receive and hold such dividends and other distributions as Collateral.

(c) If any Event of Default shall have occurred and be continuing, any cash held by the Secured Party as Collateral and all cash Proceeds received by the Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral shall be applied in whole or in part by the Secured Party to the payment of expenses incurred by the Secured Party in connection with the foregoing or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Secured Party hereunder, including reasonable attorneys' fees, and the balance of such proceeds shall be applied or set off against all or any part of the Secured Obligations in such order as the Secured Party shall elect. Any surplus of such cash or cash Proceeds held by the Secured Party and remaining after payment in full of all the Secured Obligations shall be paid over to the Grantor or to whomsoever may be lawfully entitled to receive such surplus. The Grantor shall remain liable for any deficiency if such cash and the cash Proceeds of any sale or other realization of the Collateral are insufficient to pay the Secured Obligations and the fees and other charges of any attorneys employed by the Secured Party to collect such deficiency.

(d) If the Secured Party shall determine to exercise its rights to sell all or any of the Collateral pursuant to this Section, the Grantor agrees that, upon request of the Secured Party, the Grantor will, at its own expense, do or cause to be done all such acts and things as may be necessary to make such sale of the Collateral or any part thereof valid and binding and in compliance with applicable law.

12. No Waiver and Cumulative Remedies. The Secured Party shall not by any act (except by a written instrument pursuant to Section 14), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. All rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies provided by law.

13. Security Interest Absolute. The Grantor hereby waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. All rights of the Secured Party and liens and security interests hereunder, and all Secured Obligations of the Grantor hereunder, shall be absolute and unconditional irrespective of:

(a) any illegality or lack of validity or enforceability of any Secured Obligation or any related agreement or instrument;

(b) any change in the time, place or manner of payment of, or in any other term of, the Secured Obligations, or any rescission, waiver, amendment or other modification of the Loan Agreements, this Agreement or any other agreement, including any increase in the Secured Obligations resulting from any extension of additional credit or otherwise;

(c) any taking, exchange, substitution, release, impairment or non-perfection of any Collateral or any other collateral, or any taking, release, impairment, amendment, waiver or other modification of any guaranty, for all or any of the Secured Obligations;

(d) any manner of sale, disposition or application of proceeds of any Collateral or any other collateral or other assets to all or part of the Secured Obligations;

(e) any default, failure or delay, willful or otherwise, in the performance of the Secured Obligations;

(f) any defense, set-off or counterclaim (other than a defense of payment or performance) that may at any time be available to, or be asserted by, the Grantor against the Secured Party; or

(g) any other circumstance (including, without limitation, any statute of limitations) or manner of administering the Loans or any existence of or reliance on any representation by the Secured Party that might vary the risk of the Grantor or otherwise operate as a defense available to, or a legal or equitable discharge of, the Grantor or any other grantor, guarantor or surety.

14. Amendments. None of the terms or provisions of this Agreement may be amended, modified, supplemented, terminated or waived, and no consent to any departure by the Grantor therefrom shall be effective unless the same shall be in writing and signed by the Secured Party and the Grantor, and then such amendment, modification, supplement, waiver or consent shall be effective only in the specific instance and for the specific purpose for which made or given.

15. Addresses for Notices. All notices and other communications provided for in this Agreement shall be in writing and shall be given in the manner and become effective as set forth in the Loan Agreements, and addressed to the respective parties at their addresses as specified on the signature pages hereof or as to either party at such other address as shall be designated by such party in a written notice to each other party.

16. Continuing Security Interest; Further Actions. This Agreement shall create a continuing First Priority lien and security interest in the Collateral and shall (a) subject to Section 17, remain in full force and effect until payment and performance in full of the Secured Obligations, (b) be binding upon the Grantor, its successors and assigns, and (c) inure to the benefit of the Secured Party and its successors, transferees and assigns; provided that the Grantor may not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the Secured Party. Without limiting the generality of the foregoing clause (c), any assignee of the Secured Party's interest in any agreement or document which includes all or any of the Secured Obligations shall, upon assignment, become vested with all the benefits granted to the Secured Party herein with respect to such Secured Obligations.

17. Termination; Release. On the date on which all Secured Obligations have been paid and performed in full, the Secured Party will, at the request and sole expense of the Grantor, (a) duly assign, transfer and deliver to or at the direction of the Grantor (without recourse and without any representation or warranty) such of the Collateral as may then remain in the possession of the Secured Party, together with any monies at the time held by the Secured Party hereunder, and (b) execute and deliver to the Grantor a proper instrument or instruments acknowledging the satisfaction and termination of this Agreement.

18. Governing Law. This Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement and the transactions contemplated hereby shall be governed by, and construed in accordance with, the laws of the State of New York.

19. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (*i.e.*, "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement. This Agreement and the Loan Agreements constitute the entire contract among the parties with respect to the subject matter hereof and supersede all previous agreements and understandings, oral or written, with respect thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Windtree Therapeutics, Inc., as Grantor

By: /s/ Craig Fraser

Name: Craig Fraser

Title: President and Chief Executive Officer

LPH Investments Ltd., as Secured Party

By: /s/ Benjamin Li, Ph.D.

Name: Benjamin Li, Ph.D.

Title: Chief Executive Officer