

**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**

Date of Report (Date of Earliest Event Reported): **May 14, 2015**

**Esperion Therapeutics, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation)

**001-35986**  
(Commission File Number)

**26-1870780**  
(I.R.S. Employer  
Identification No.)

**3891 Ranchero Drive, Suite 150**  
**Ann Arbor, MI**  
(Address of principal executive offices)

**48108**  
(Zip Code)

Registrant's telephone number, including area code: **(734) 862-4840**

**Not Applicable**

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

On May 14, 2015, each of Tim M. Mayleben, the Chief Executive Officer of Esperion Therapeutics, Inc. (the "Company") and Narendra Lalwani, the Company's Chief Operating Officer and Executive Vice President for Research and Development, entered into new employment agreements with the Company.

Pursuant to his employment agreement, Mr. Mayleben is entitled to an annual base salary of \$480,000 and a discretionary annual bonus as determined in the sole discretion of the Company's board of directors or compensation committee. Pursuant to the employment agreement, in the event that Mr. Mayleben's employment is terminated by the Company without "cause", or Mr. Mayleben resigns his employment for "good reason" (each as defined in the employment agreement), Mr. Mayleben would be entitled to receive severance in an amount equal to his then-annual base salary, payable in twelve monthly installments, and certain health insurance benefits. In the event that such termination without cause or resignation for good reason occurs within a twelve-month period following a sale event (as defined in the employment agreement), Mr. Mayleben will be entitled to receive severance in an amount equal to one and a half times his then-annual base salary, plus his target bonus, payable in lump sum within 60 days after the date of termination, and certain health insurance benefits and all then unvested stock options and other stock-based awards held by Mr. Mayleben, if any, will immediately accelerate and become fully exercisable or nonforfeitable. As provided in the Company's existing Amended and Restated 2013 Stock Equity Incentive Plan (the "2013 Plan"), all stock options and other stock-based awards issued under 2013 Plan held by Mr. Mayleben, if any, will immediately accelerate and become fully exercisable or nonforfeitable as of a sale event (as defined in the 2013 Plan).

Pursuant to his employment agreement, Dr. Lalwani's is entitled to an annual base salary of \$370,000 and a discretionary annual bonus as determined in the sole discretion of the Company's board of directors or compensation committee. Pursuant to the employment agreement, in the event that Mr. Lalwani's employment is terminated by the Company without "cause", (as defined in the employment agreement) Dr. Lalwani would be entitled to receive severance in an amount equal to nine months of his then-annual base salary, payable in nine monthly installments, and certain health insurance benefits. In the event that such termination without cause or resignation for "good reason" occurs within a twelve-month period following a "sale event" (each as defined in the employment agreement), Dr. Lalwani will be entitled to receive severance in an amount equal to his then-annual base salary, plus his target bonus, payable in lump sum within 60 days after the date of termination, and certain health insurance benefits, and all stock options and other stock-based awards held by Dr. Lalwani, if any (including following the acceleration of all awards outstanding under the 2013 Plan in connection with such sale event pursuant to the terms of the 2013 Plan), will immediately accelerate and become fully exercisable or nonforfeitable.

The foregoing description of the employment agreements does not purport to be complete and is qualified in its entirety by reference to the complete text of each of the employment agreements, which are attached hereto as Exhibits 10.1 and 10.2 and incorporated by reference herein.

Additionally, on May 14, 2015, the Company amended its non-employee director compensation policy to provide that each non-employee member of the Board of Directors of the Company shall receive an annual equity grant of an option to purchase 8,000 shares of common stock of the Company, up from than 5,000 shares of common stock, with an exercise price equal to the fair market of the Company's common stock on the date of such grant.

**Item 5.07. Submission of Matters to a Vote of Security Holders.**

The "Company held its Annual Meeting of Stockholders (the "Annual Meeting") on May 14, 2015. As of March 16, 2015, the record date for the Annual Meeting, there were 20,437,313 outstanding shares of the Company's common stock. The Company's stockholders voted on the following matters, which are described in detail in the Company's Definitive Proxy Statement filed with the U.S. Securities and Exchange Commission ("SEC") on April 1, 2015: (i) to elect Antonio M. Gotto Jr., M.D., D.Phil., Gilbert S. Omenn, M.D., Ph.D., and Nicole Vitullo as Class II directors of the Company to each serve for a three-year term expiring at the Company's annual meeting of stockholders in 2018 and until their successors have been elected and qualified ("Proposal 1"), (ii) to approve the amendment and restatement of the Company's 2013 Stock Option and Incentive Plan ("Proposal 2"), and (iii) to ratify the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2015 ("Proposal 3").

The Company's stockholders approved the Class II director nominees recommended for election in Proposal 1 at the Annual Meeting. The Company's stockholders voted for Class II directors as follows:

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<b>Class I Director Nominee</b>	<b>For</b>	<b>Against</b>	<b>Abstain</b>	<b>Broker Non-Votes</b>
Antonio M. Gotto Jr., M.D., D.Phil.	13,849,094	430,028	4,178	3,695,816
Gilbert S. Omenn, M.D., Ph.D.	14,246,910	32,212	4,178	3,695,816
Nicole Vitullo	13,579,489	699,702	4,109	3,695,816

The Company's stockholders approved Proposal 2. The votes cast at the Annual Meeting were as follows:

<b>For</b>	<b>Against</b>	<b>Abstain</b>	<b>Broker Non-Votes</b>
8,501,459	5,768,639	13,202	3,695,816

The Company's stockholders approved Proposal 3. The votes cast at the Annual Meeting were as follows:

<b>For</b>	<b>Against</b>	<b>Abstain</b>
17,905,451	19,280	54,385

No other matters were submitted to or voted on by the Company's stockholders at the Annual Meeting.

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

(d) Exhibits

<b>Exhibit No.</b>	<b>Description</b>
10.1	Employment Agreement, dated May 14, 2015, between the Registrant and Tim M. Mayleben.
10.2	Employment Agreement, dated May 14, 2015, between the Registrant and Narendra D. Lalwani.

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**SIGNATURE**

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.

Date: May 20, 2015

Esperion Therapeutics, Inc.

By: /s/ Tim M. Mayleben  
 Tim M. Mayleben  
 President and Chief Executive Officer

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**Exhibit Index**

<b>Exhibit No.</b>	<b>Description</b>
10.1	Employment Agreement, dated May 14, 2015, between the Registrant and Tim M. Mayleben.



## EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is made as of the 14<sup>th</sup> day of May, 2015 by and between Esperion Therapeutics, Inc., a Delaware corporation (the “Company”), and Timothy Mayleben (the “Executive”). Except with respect to the Restrictive Covenants (as defined below), this Agreement supersedes, amends and restates in all respects all prior agreements between the Executive and the Company regarding the subject matter herein, including without limitation the employment agreement between the Employee and the Employer dated December 3, 2012 (the “Former Employment Agreement”).

1. **Employment Term.** The Company and the Executive desire to continue their employment relationship, pursuant to this Agreement commencing as of the date hereof and continuing in effect until terminated by either party in accordance with this Agreement (the “Term”). The Executive’s employment with the Company will continue to be “at will,” meaning that the Executive’s employment may be terminated by the Company or the Executive at any time and for any reason subject to the terms of this Agreement. If the Executive’s employment with the Company is terminated for any reason during the Term, the Company shall pay or provide to the Executive (or to his authorized representative or estate) any earned but unpaid base salary, unpaid expense reimbursements, accrued but unused vacation and any vested benefits the Executive may have under any employee benefit plan of the Company (the “Accrued Benefit”).

2. **Position; Duties.** During the Term, the Executive will serve as President and Chief Executive Officer (“CEO”), and will have such powers and duties as may from time to time be prescribed by the Board of Directors of the Company (the “Board”). The Executive shall devote his full working time and efforts to the business and affairs of the Company. Notwithstanding the foregoing, the Executive may serve on other boards of directors, with the approval of the Board and/or engage in religious, charitable or other community activities as long as such services and activities are disclosed to and approved by the Board and do not interfere with the Executive’s performance of his duties to the Company. As long as the Executive is the CEO, he shall serve as a member of the Board.

3. **Compensation and Related Matters.**

(a) **Base Salary.** During the Term, the Executive’s annual base salary will be \$480,000, subject to redetermination by the Board. The annual base salary in effect at any given time is referred to herein as “Base Salary.” The Base Salary will be payable in a manner that is consistent with the Company’s usual payroll practices for senior executives.

(b) **Bonus.** During the Term, the Executive will be eligible to be considered for annual cash bonus as determined by the Board or the Compensation Committee of the Board (the “Compensation Committee”) from time to time. The annual bonus will be targeted at 50% of the Executive’s Base Salary (the “Target Bonus”). The actual bonus is discretionary and will be subject to the Board or the Compensation Committee’s assessment of the Executive’s performance as well as business conditions of the Company. The Executive’s

bonus, if any, will be paid by March 15 following the applicable bonus year. To earn a bonus, the Executive must be employed by the Company on the day such bonus is paid.

(c) **PTO:** During the Term, the Executive is eligible to earn up to five (5) weeks of paid-time-off (“PTO”), to be accrued on a pro rata basis and subject to the terms and conditions of the Company’s policies and procedures relating to PTO.

(d) **Other Benefits.** During the Term, the Executive will be entitled to continue to participate in the Company’s employee benefit plans, subject to the terms and the conditions of such plans and to the Company’s ability to amend and modify such plans.

(e) **Equity.** The Executive’s equity compensation shall be governed by the terms and conditions of the Company’s Stock Option and Incentive Plan, as may be amended, and the applicable stock option and/or restricted stock agreements (collectively the “Equity Documents”). Provided and notwithstanding anything to the contrary in the Equity Documents, Section 5 of this Agreement shall apply in the event of a Sale Event.

(f) **Reimbursement of Business Expenses.** The Company shall reimburse the Executive for travel, entertainment, business development and other expenses reasonably and necessarily incurred by the Executive in connection with the Company’s business. Expense reimbursement shall be subject to such policies the Company may adopt from time to time, including policies related to remote working arrangements and associated travel.

4. **Certain Definitions.**

(a) **Sale Event.** A Sale Event shall mean (i) the sale of all or substantially all of the assets of the Company on a consolidated basis to an unrelated person or entity, (ii) a merger, reorganization or consolidation pursuant to which the holders of the Company’s outstanding voting power and outstanding stock immediately prior to such transaction do not own a majority of the outstanding voting power and outstanding stock or other equity interests of the resulting or successor entity (or its ultimate parent, if applicable) immediately upon completion of such transaction, (iii) the sale of all of the Stock of the Company to an unrelated person, entity or group thereof acting in concert, or (iv) any other transaction in which the owners of the Company’s outstanding voting power immediately prior to such transaction do not own at least a majority of the outstanding voting power of the Company or any successor entity immediately upon completion of the transaction other than as a result of the acquisition of securities directly from the Company.

(b) **Terminating Event.** A “Terminating Event” shall mean (i) Termination by the Company other than for Cause; or (ii) Termination by the Executive for Good Reason, both as set forth in this Section 4(b):

(i) **Termination by the Company Other Than For Cause.** Termination by the Company of the Executive’s employment for any reason other than for Cause, death or Disability. For purposes of this Agreement, “Cause” shall mean, as determined by the Board:

(A) conviction (including a guilty or no contest plea) on a

felony indictment or for any misdemeanor involving moral turpitude that adversely affects the Company;

(B) participation in a fraud or act of dishonesty against the Company;

(C) material breach of Executive's duties to the Company, that has not been cured to the reasonable satisfaction of the Board, within thirty (30) days following written notice to Executive (provided that no such notice and cure period will be required if such a breach is not subject to cure);

(D) intentional and material damage to the Company's property; or

(E) material breach of this Agreement or other written agreement with the Company or written policy of the Company.

(ii) **Termination by the Executive for Good Reason.** Termination by the Executive of the Executive's employment with the Company for Good Reason. For purposes of this Agreement, "Good Reason" shall mean that the Executive has complied with the "Good Reason Process" (hereinafter defined) following, the occurrence of any of the following events:

(A) a material diminution in the Executive's position, responsibilities, authority or duties or any requirement that Executive report to any person(s) or entity other than the Board;

(B) a material diminution in the Executive's base salary except for across-the-board salary reductions based on the Company's financial performance similarly affecting all or substantially all senior management employees of the Company;

(C) a material change in the geographic location at which the Executive is required to provide services to the Company, not including business travel and short-term assignments; or

(D) any material breach by the Company of its obligations under this Agreement.

"Good Reason Process" shall mean that (i) the Executive reasonably determines in good faith that a "Good Reason" condition has occurred; (ii) the Executive notifies the Company in writing of the first occurrence of the Good Reason condition within 60 days of the first occurrence of such condition; (iii) the Executive cooperates in good faith with the Company's efforts, for a period not less than 30 days following such notice (the "Cure Period"), to remedy the condition; (iv) notwithstanding such efforts, the Good Reason condition continues to exist; and (v) the Executive terminates his employment within 60 days after the end of the Cure Period.

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If the Company cures the Good Reason condition during the Cure Period, Good Reason shall be deemed not to have occurred.

A Terminating Event shall not be deemed to have occurred pursuant to this Section 4(b) as a result of: (i) the ending of the Executive's employment due to the Executive's death or Disability, (ii) Executive's resignation for any reason other than Good Reason, (iii) the Company's termination of the employment relationship for Cause; or (iv) solely as a result of the Executive being or becoming an employee of any direct or indirect successor to the business or assets of the Company rather than continuing as an employee of the Company following a Sale Event. For purposes hereof, the Executive will be considered "Disabled" if, as a result of the Executive's incapacity due to physical or mental illness, the Executive shall have been absent from his duties to the Company on a full-time basis for 180 calendar days in the aggregate in any 12-month period.

5. **Sale Event; Accelerated Vesting; Severance During the Sale Event Period.** In the event of a Sale Event all stock options and other stock-based awards with time-based vesting held by the Executive shall immediately accelerate and become fully exercisable or nonforfeitable as of the date of the Sale Event. In addition, in the event a Terminating Event occurs within the twelve (12) month period commencing with a Sale Event (the "Sale Event Period"), subject to the Executive signing and complying with a separation agreement in a form and manner satisfactory to the Company containing, among other provisions, a general release of claims in favor of the Company and related persons and entities, confidentiality, return of property and non-disparagement and reaffirmation of the Restrictive Covenants (the "Separation Agreement and Release") and the Separation Agreement and Release becoming irrevocable, all within 60 days after the Date of Termination, the following shall occur:

(a) the Company shall pay to the Executive an amount equal to the sum of (i) 1.5 times the Executive's Base Salary in effect immediately prior to the Terminating Event (or the Executive's Base Salary in effect immediately prior to the Sale Event, if higher), and (ii) the Executive's Target Bonus; and

(b) if the Executive was participating in the Company's group health plan immediately prior to the Date of Termination and elects COBRA health continuation, then the Company shall pay to the Executive a lump sum cash payment in an amount equal to the monthly employer contribution that the Company would have made to provide health insurance to the Executive if the Executive had remained employed by the Company for eighteen (18) months after the Date of Termination.

The amounts payable under Section 5(a) and (b), as applicable, shall be paid out in a lump sum within 60 days after the Date of Termination; provided, however, that if the 60-day period begins in one calendar year and ends in a second calendar year, the amounts shall be paid in the second calendar year no later than the last day of the 60-day period.

6. **Severance Outside the Sale Event Period.** In the event a Terminating Event occurs at any time other than during the Sale Event Period, subject to the Executive signing the Separation Agreement and Release and the Separation Agreement and Release becoming irrevocable, all within 60 days after the Date of Termination, the following shall occur:

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(a) the Company shall pay to the Executive an amount equal to twelve (12) months of the Executive's annual Base Salary in effect immediately prior to the Terminating Event;

(b) if the Executive was participating in the Company's group health plan immediately prior to the Date of Termination and elects COBRA health continuation, then the Company shall pay to the Executive a monthly cash payment for twelve (12) months or the Executive's COBRA health continuation period, whichever ends earlier, in an amount equal to the monthly employer contribution that the Company would have made to provide health insurance to the Executive if the Executive had remained employed by the Company.

The amounts payable under Section 6(a) and (b), as applicable, shall be paid out in substantially equal installments in accordance with the Company's payroll practice over twelve (12) months commencing within 60 days after the Date of Termination; provided, however, that if the 60-day period begins in one calendar year and ends in a second calendar year, the severance shall begin to be paid in the second calendar year by the last day of such 60-day period; provided, further, that the initial payment shall include a catch-up payment to cover amounts retroactive to the day immediately following the Date of Termination. Each payment pursuant to this Agreement is intended to constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b)(2).

7. **Restrictive Covenants.** The terms of the Employee Non-Competition, Non-Solicitation, Confidentiality and Assignment Agreement dated January 22, 2014 (the "Restrictive Covenants"), appended hereto as Exhibit A, continue to be in full force and effect and are incorporated by reference in this Agreement. The Executive hereby reaffirms the Restrictive Covenants as material terms of this Agreement.

(a) **Third-Party Agreements and Rights.** The Executive hereby confirms that the Executive is not bound by the terms of any agreement with any previous employer or other party which restricts in any way the Executive's use or disclosure of information or the Executive's engagement in any business. The Executive represents to the Company that the Executive's execution of this Agreement, the Executive's employment with the Company and the performance of the Executive's proposed duties for the Company will not violate any obligations the Executive may have to any such previous employer or other party. In the Executive's work for the Company, the Executive will not disclose or make use of any information in violation of any agreements with or rights of any such previous employer or other party, and the Executive will not bring to the premises of the Company any copies or other tangible embodiments of non-public information belonging to or obtained from any such previous employment or other party.

(b) **Litigation and Regulatory Cooperation.** During and after the Executive's employment, the Executive shall cooperate fully with the Company in the defense or prosecution of any claims or actions now in existence or which may be brought in the future against or on behalf of the Company which relate to events or occurrences that transpired while the Executive was employed by the Company. The Executive's full cooperation in connection with such claims or actions shall include, but not be limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness on behalf of the Company at mutually

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convenient times. During and after the Executive's employment, the Executive also shall cooperate fully with the Company in connection with any investigation or review of any federal, state or local regulatory authority as any such investigation or review relates to events or occurrences that transpired while the Executive was employed by the Company. The Company shall reimburse the Executive for any reasonable out-of-pocket expenses incurred in connection with the Executive's performance of obligations pursuant to this Section 7(b).

(c) **Relief.** The Executive agrees that it would be difficult to measure any damages caused to the Company which might result from any breach by the Executive of the promises set forth in this Section 7, and that in any event money damages would be an inadequate remedy for any such breach. Accordingly, the Executive agrees that if the Executive breaches, or proposes to breach, any portion of this Agreement, the Company shall be entitled, in addition to all other remedies that it may have, to an injunction or other appropriate equitable relief to restrain any such breach without showing or proving any actual damage to the Company. In addition, in the event the Executive breaches the Restrictive Covenants during a period when he is receiving Severance, the Company shall have the right to suspend or terminate the Severance. Such suspension or termination shall not limit the Company's other options with respect to relief for such breach and shall not relieve the Executive of his duties under this Agreement.

8. **Additional Limitation.**

(a) Anything in this Agreement to the contrary notwithstanding, in the event that the amount of any compensation, payment or distribution by the Company to or for the benefit of the Executive, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, calculated in a manner consistent with Section 280G of the Code and the applicable regulations thereunder (the "Severance Payments"), would be subject to the excise tax imposed by Section 4999 of the Code, the following provisions shall apply:

(i) If the Severance Payments, reduced by the sum of (A) the Excise Tax and (B) the total of the federal, state, and local income and employment taxes payable by the Executive on the amount of the Severance Payments which are in excess of the Threshold Amount, are greater than or equal to the Threshold Amount, the Executive shall be entitled to the full amount of Severance Payments.

(ii) If the Threshold Amount is less than (x) the Severance Payments, but greater than (y) the Severance Payments reduced by the sum of (A) the Excise Tax and (B) the total of the federal, state, and local income and employment taxes on the amount of the Severance Payments which are in excess of the Threshold Amount, then the Severance Payments shall be reduced (but not below zero) to the extent necessary so that the sum of all Severance Payments shall not exceed the Threshold Amount. In such event, the Severance Payments shall be reduced in the following order: (1) cash payments not subject to Section 409A of the Code; (2) cash payments subject to Section 409A of the Code; (3) equity-based payments and acceleration; and (4) non-cash forms of benefits. To the extent any payment is to be made over time (e.g., in installments, etc.), then the payments shall be reduced in reverse chronological order.

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(b) For the purposes of this Section 8, “Threshold Amount” shall mean three times the Executive’s “base amount” within the meaning of Section 280G(b)(3) of the Code and the regulations promulgated thereunder less one dollar (\$1.00); and “Excise Tax” shall mean the excise tax imposed by Section 4999 of the Code, and any interest or penalties incurred by the Executive with respect to such excise tax.

(c) The determination as to which of the alternative provisions of Section 8(a) above shall apply to the Executive shall be made by a nationally recognized accounting firm selected by the Company (the “Accounting Firm”), which shall provide detailed supporting calculations both to the Company and the Executive within 15 business days of the Date of Termination, if applicable, or at such earlier time as is reasonably requested by the Company or the Executive. For purposes of determining which of the alternative provisions of Section 8(a) above shall apply, the Executive shall be deemed to pay federal income taxes at the highest marginal rate of federal income taxation applicable to individuals for the calendar year in which the determination is to be made, and state and local income taxes at the highest marginal rates of individual taxation in the state and locality of the Executive’s residence on the Date of Termination, net of the maximum reduction in federal income taxes which could be obtained from deduction of such state and local taxes. Any determination by the Accounting Firm shall be binding upon the Company and the Executive.

**9. Section 409A.**

(a) Anything in this Agreement to the contrary notwithstanding, if at the time of the Executive’s “separation from service” within the meaning of Section 409A of the Code, the Company determines that the Executive is a “specified employee” within the meaning of Section 409A(a)(2)(B)(i) of the Code, then to the extent any payment or benefit that the Executive becomes entitled to under this Agreement on account of the Executive’s separation from service would be considered deferred compensation subject to the 20 percent additional tax imposed pursuant to Section 409A(a) of the Code as a result of the application of Section 409A(a)(2)(B)(i) of the Code, such payment shall not be payable and such benefit shall not be provided until the date that is the earlier of (A) six months and one day after the Executive’s separation from service, or (B) the Executive’s death.

(b) The parties intend that this Agreement will be administered in accordance with Section 409A of the Code. To the extent that any provision of this Agreement is ambiguous as to its compliance with Section 409A of the Code, the provision shall be read in such a manner so that all payments hereunder comply with Section 409A of the Code. The parties agree that this Agreement may be amended, as reasonably requested by either party, and as may be necessary to fully comply with Section 409A of the Code and all related rules and regulations in order to preserve the payments and benefits provided hereunder without additional cost to either party.

(c) All in-kind benefits provided and expenses eligible for reimbursement under this Agreement shall be provided by the Company or incurred by the Executive during the time periods set forth in this Agreement. All reimbursements shall be paid as soon as administratively practicable, but in no event shall any reimbursement be paid after the last day of the taxable year following the taxable year in which the expense was incurred. The amount

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of in-kind benefits provided or reimbursable expenses incurred in one taxable year shall not affect the in-kind benefits to be provided or the expenses eligible for reimbursement in any other taxable year. Such right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit.

(d) To the extent that any payment or benefit described in this Agreement constitutes “non-qualified deferred compensation” under Section 409A of the Code, and to the extent that such payment or benefit is payable upon the Executive’s termination of employment, then such payments or benefits shall be payable only upon the Executive’s “separation from service.” The determination of whether and when a separation from service has occurred shall be made in accordance with the presumptions set forth in Treasury Regulation Section 1.409A-1(h).

(e) The Company makes no representation or warranty and shall have no liability to the Executive or any other person if any provisions of this Agreement are determined to constitute deferred compensation subject to Section 409A of the Code but do not satisfy an exemption from, or the conditions of, such Section.

**10. Withholding.** All payments made by the Company to the Executive under this Agreement shall be net of any tax or other amounts required to be withheld by the Company under applicable law.

**11. Notice and Date of Termination.**

(a) Notice of Termination. The Executive’s employment with the Company may be terminated by the Company or the Executive at any time and for any reason. During the Term, any termination of the Executive’s employment (other than by reason of death) shall be communicated by written Notice of Termination from one party hereto to the other party hereto in accordance with this Section 11. For purposes of this Agreement, a “Notice of Termination” shall mean a notice which shall indicate the specific termination provision in this Agreement relied upon.

(b) Date of Termination. “Date of Termination” shall mean: (i) if the Executive’s employment is terminated by his death, the date of his death; (ii) if the Executive’s employment is terminated on account of Executive’s Disability or by the Company for Cause, the date on which Notice of Termination is given; (iii) if the Executive’s employment is terminated by the Company without Cause the date on which a Notice of Termination is given; (iv) if the Executive’s employment is terminated by the Executive without Good Reason, 30 days after the date on which a Notice of Termination is given, and (v) if the Executive’s employment is terminated by the Executive with Good Reason, the date on which a Notice of Termination is given after the end of the Cure Period. Notwithstanding the foregoing, in the event that the Executive gives a Notice of Termination to the Company, the Company may unilaterally accelerate the Date of Termination and such acceleration shall not result in a termination by the Company for purposes of this Agreement.

**12. No Mitigation.** The Company agrees that, if the Executive’s employment by the Company is terminated during the term of this Agreement, the Executive is not required to seek

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other employment or to attempt in any way to reduce any amounts payable to the Executive by the Company pursuant to Section 5 or Section 6 hereof. Further, the amount of any payment provided for in this Agreement shall not be reduced by any compensation earned by the Executive as the result of employment by another employer.

**13. Consent to Jurisdiction.** The parties hereby consent to the jurisdiction of the Superior Court of the State of Michigan and the United States District Court in Michigan. Accordingly, with respect to any such court action, the Executive (a) submits to the personal jurisdiction of such courts; (b) consents to service of process; and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.

**14. Integration.** This Agreement constitutes the entire agreement between the parties with respect to compensation, severance pay, benefits and accelerated vesting and supersedes in all respects all prior agreements between the parties concerning such subject matter, including without limitation the Former Employment Agreement and any offer letter or employment agreement relating to the Executive's employment relationship with the Company. Provided, and notwithstanding the foregoing, the Restrictive Covenants and any other agreement relating to confidentiality, noncompetition, nonsolicitation or assignment of inventions shall not be superseded by this Agreement and the Executive acknowledges and agrees that any such agreement shall remain in full force and effect.

**15. Successor to the Executive.** This Agreement shall inure to the benefit of and be enforceable by the Executive's personal representatives, executors, administrators, heirs, distributees, devisees and legatees. In the event of the Executive's death after a Terminating Event but prior to the completion by the Company of all payments due him under this Agreement, the Company shall continue such payments to the Executive's beneficiary designated in writing to the Company prior to his death (or to his estate, if the Executive fails to make such designation).

**16. Enforceability.** If any portion or provision of this Agreement (including, without limitation, any portion or provision of any Section of this Agreement) shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**17. Waiver.** No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

**18. Notices.** Any notices, requests, demands and other communications provided for by this Agreement shall be sufficient if in writing and delivered in person or sent by a nationally recognized overnight courier service of by registered or certified mail, postage prepaid, return

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receipt requested, to the Executive at the last address the Executive has filed in writing with the Company, or to the Company at its main office, attention of the Board of Directors.

**19. Amendment.** This Agreement may be amended or modified only by a written instrument signed by the Executive and by a duly authorized representative of the Company.

**20. Effect on Other Plans and Agreements.** An election by the Executive to resign for Good Reason under the provisions of this Agreement shall not be deemed a voluntary termination of employment by the Executive for the purpose of interpreting the provisions of any of the Company's benefit plans, programs or policies. Nothing in this Agreement shall be construed to limit the rights of the Executive under the Company's benefit plans, programs or policies except as otherwise provided in Section 7 hereof, and except that the Executive shall have no rights to any severance benefits under any Company severance pay plan, offer letter or otherwise. In the event that the Executive is party to an agreement with the Company providing for payments or benefits under such agreement and this Agreement, the terms of this Agreement shall govern and Executive may receive payment under this Agreement only and not both. Further, Section 5 and Section 6 of this Agreement are mutually exclusive and in no event shall Executive be entitled to payments or benefits pursuant to Section 5 and Section 6 of this Agreement.

**21. Governing Law.** This is a Michigan contract and shall be construed under and be governed in all respects by the laws of the State of Michigan, without giving effect to the conflict of laws principles.

**22. Successor to Company.** The Company shall require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Company expressly to assume and agree to perform this Agreement to the same extent that the Company would be required to perform it if no succession had taken place. Failure of the Company to obtain an assumption of this Agreement at or prior to the effectiveness of any succession shall be a material breach of this Agreement.

**23. Gender Neutral.** Wherever used herein, a pronoun in the masculine gender shall be considered as including the feminine gender unless the context clearly indicates otherwise.

**24. Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be taken to be an original; but such counterparts shall together constitute one and the same document.

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IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date and year first above written.

**ESPERION THERAPEUTICS, INC.**

By: /s/ Richard B. Bartram



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Name: Richard B. Bartram  
Title: Vice President, Finance

**EXECUTIVE:**

/s/ Timothy Mayleben  
Timothy Mayleben  
President and Chief Executive Officer

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## EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is made as of the 14<sup>th</sup> day of May, 2015 by and between Esperion Therapeutics, Inc., a Delaware corporation (the “Company”), and Narendra Lalwani (the “Executive”). Except with respect to the Restrictive Covenants (as defined below), this Agreement supersedes, amends and restates in all respects all prior agreements between the Executive and the Company regarding the subject matter herein, including without limitation the employment agreement between the Employee and the Employer date July 23, 2014 (the “Former Employment Agreement”).

1. **Employment Term.** The Company and the Executive desire to continue their employment relationship, pursuant to this Agreement commencing as of the date hereof and continuing in effect until terminated by either party in accordance with this Agreement (the “Term”). The Executive’s employment with the Company will continue to be “at will,” meaning that the Executive’s employment may be terminated by the Company or the Executive at any time and for any reason subject to the terms of this Agreement. If the Executive’s employment with the Company is terminated for any reason during the Term, the Company shall pay or provide to the Executive (or to his authorized representative or estate) any earned but unpaid base salary, unpaid expense reimbursements, accrued but unused vacation and any vested benefits the Executive may have under any employee benefit plan of the Company (the “Accrued Benefit”).

2. **Position; Duties.** During the Term, the Executive will serve as Executive Vice President, Research and Development and Chief Operating Officer, and will have such powers and duties as may from time to time be prescribed by the Board of Directors of the Company (the “Board”). The Executive shall devote his full working time and efforts to the business and affairs of the Company. Notwithstanding the foregoing, the Executive may serve on other boards of directors, with the approval of the Board and/or engage in religious, charitable or other community activities as long as such services and activities are disclosed to and approved by the Board and do not interfere with the Executive’s performance of his duties to the Company.

3. **Compensation and Related Matters.**

(a) **Base Salary.** During the Term, the Executive’s annual base salary will be \$370,000, subject to redetermination by the Board. The annual base salary in effect at any given time is referred to herein as “Base Salary.” The Base Salary will be payable in a manner that is consistent with the Company’s usual payroll practices for senior executives.

(b) **Bonus.** During the Term, the Executive will be eligible to be considered for annual cash bonus as determined by the Board or the Compensation Committee of the Board (the “Compensation Committee”) from time to time. The annual bonus will be targeted at 40% of the Executive’s Base Salary (the “Target Bonus”). The actual bonus is discretionary and will be subject to the Board or the Compensation Committee’s assessment of the Executive’s performance as well as business conditions of the Company. The Executive’s bonus, if any, will be paid by March 15 following the applicable bonus year. To earn a bonus, the Executive must be employed by the Company on the day such bonus is paid.

(c) **PTO:** During the Term, the Executive is eligible to earn up to four weeks of paid-time-off (“PTO”), to be accrued on a pro rata basis and subject to the terms and conditions of the Company’s policies and procedures relating to PTO.

(d) **Other Benefits.** During the Term, the Executive will be entitled to continue to participate in the Company’s employee benefit plans, subject to the terms and the conditions of such plans and to the Company’s ability to amend and modify such plans.

(e) **Equity.** The Executive’s equity compensation shall be governed by the terms and conditions of the Company’s Stock Option and Incentive Plan, as may be amended, and the applicable stock option and/or restricted stock agreements (collectively the “Equity Documents”). Provided and notwithstanding anything to the contrary in the Equity Documents, Section 5 of this Agreement shall apply in the event of a Sale Event.

(f) **Reimbursement of Business Expenses.** The Company shall reimburse the Executive for travel, entertainment, business development and other expenses reasonably and necessarily incurred by the Executive in connection with the Company’s business. Expense reimbursement shall be subject to such policies the Company may adopt from time to time, including policies related to remote working arrangements and associated travel.

4. **Certain Definitions.**

(a) **Sale Event.** A Sale Event shall mean (i) the sale of all or substantially all of the assets of the Company on a consolidated basis to an unrelated person or entity, (ii) a merger, reorganization or consolidation pursuant to which the holders of the Company’s outstanding voting power and outstanding stock immediately prior to such transaction do not own a majority of the outstanding voting power and outstanding stock or other equity interests of the resulting or successor entity (or its ultimate parent, if applicable) immediately upon completion of such transaction, (iii) the sale of all of the Stock of the Company to an unrelated person, entity or group thereof acting in concert, or (iv) any other transaction in which the owners of the Company’s outstanding voting power immediately prior to such transaction do not own at least a majority of the outstanding voting power of the Company or any successor entity immediately upon completion of the transaction other than as a result of the acquisition of securities directly from the Company.

(b) **Terminating Event.** A “Terminating Event” shall mean (i) Termination by the Company other than for Cause at any time; or (ii) Termination by the Executive for Good Reason on or within the twelve (12) month period commencing with a Sale Event (such 12-month period, the “Sale Event Period”), both as set forth in this Section 4(b):

(i) **Termination by the Company Other Than For Cause.** Termination by the Company of the Executive’s employment for any reason other than for Cause, death or Disability. For purposes of this Agreement, “Cause” shall mean, as determined by the Board:

(A) conviction (including a guilty or no contest plea) on a felony indictment or for any misdemeanor involving moral turpitude that adversely affects the Company;

- (B) participation in a fraud or act of dishonesty against the Company;
- (C) material breach of Executive's duties to the Company, that has not been cured to the reasonable satisfaction of the Board, within thirty (30) days following written notice to Executive (provided that no such notice and cure period will be required if such a breach is not subject to cure);
- (D) intentional and material damage to the Company's property; or
- (E) material breach of this Agreement or other written agreement with the Company or written policy of the Company.

(ii) Termination by the Executive for Good Reason within the Sale Event Period. Termination by the Executive of the Executive's employment with the Company for Good Reason within the Sale Event Period. For purposes of this Agreement, "Good Reason" shall mean that the Executive has complied with the "Good Reason Process" (hereinafter defined) following, the occurrence of any of the following events:

- (A) a material diminution in the Executive's position, responsibilities, authority or duties;
- (B) a material diminution in the Executive's base salary except for across-the-board salary reductions based on the Company's financial performance similarly affecting all or substantially all senior management employees of the Company; or
- (C) a material change in the geographic location at which the Executive is required to provide services to the Company, not including business travel and short-term assignments.

"Good Reason Process" shall mean that (i) the Executive reasonably determines in good faith that a "Good Reason" condition has occurred; (ii) the Executive notifies the Company in writing of the first occurrence of the Good Reason condition within 60 days of the first occurrence of such condition; (iii) the Executive cooperates in good faith with the Company's efforts, for a period not less than 30 days following such notice (the "Cure Period"), to remedy the condition; (iv) notwithstanding such efforts, the Good Reason condition continues to exist; and (v) the Executive terminates his employment within 60 days after the end of the Cure Period. If the Company cures the Good Reason condition during the Cure Period, Good Reason shall be deemed not to have occurred.

A Terminating Event shall not be deemed to have occurred pursuant to this Section 4(b) as a result of: (i) the ending of the Executive's employment due to the Executive's death or Disability, (ii) Executive's resignation for any reason, other than for Good Reason within the Sale Event Period, (iii) the Company's termination of the employment relationship for Cause; or

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(iv) solely as a result of the Executive being or becoming an employee of any direct or indirect successor to the business or assets of the Company rather than continuing as an employee of the Company following a Sale Event. For purposes hereof, the Executive will be considered "Disabled" if, as a result of the Executive's incapacity due to physical or mental illness, the Executive shall have been absent from his duties to the Company on a full-time basis for 180 calendar days in the aggregate in any 12-month period.

**5. Sale Event; Accelerated Vesting; Severance During the Sale Event Period.** In the event of a Sale Event all stock options and other stock-based awards with time-based vesting held by the Executive shall immediately accelerate and become fully exercisable or nonforfeitable as of the date of the Sale Event. In addition, in the event a Terminating Event occurs within the Sale Event Period, subject to the Executive signing and complying with a separation agreement in a form and manner satisfactory to the Company containing, among other provisions, a general release of claims in favor of the Company and related persons and entities, confidentiality, return of property and non-disparagement and reaffirmation of the Restrictive Covenants (the "Separation Agreement and Release") and the Separation Agreement and Release becoming irrevocable, all within 60 days after the Date of Termination, the following shall occur:

- (a) the Company shall pay to the Executive an amount equal to the sum of (i) 1 times the Executive's Base Salary in effect immediately prior to the Terminating Event (or the Executive's Base Salary in effect immediately prior to the Sale Event, if higher), and (ii) the Executive's Target Bonus; and
- (b) if the Executive was participating in the Company's group health plan immediately prior to the Date of Termination and elects COBRA health continuation, then the Company shall pay to the Executive a lump sum cash payment in an amount equal to the monthly employer contribution that the Company would have made to provide health insurance to the Executive if the Executive had remained employed by the Company for twelve (12) months after the Date of Termination.

The amounts payable under Section 5(a) and (b), as applicable, shall be paid out in a lump sum within 60 days after the Date of Termination; provided, however, that if the 60-day period begins in one calendar year and ends in a second calendar year, the amounts shall be paid in the second calendar year no later than the last day of the 60-day period.

**6. Severance Outside the Sale Event Period.** In the event a Terminating Event occurs at any time other than during the Sale Event Period, subject to the Executive signing the Separation Agreement and Release and the Separation Agreement and Release becoming irrevocable, all within 60 days after the Date of Termination, the following shall occur:

- (a) the Company shall pay to the Executive an amount equal to nine (9) months of the Executive's annual Base Salary in effect immediately prior to the Terminating Event;
- (b) if the Executive was participating in the Company's group health plan immediately prior to the Date of Termination and elects COBRA health continuation, then the

Company shall pay to the Executive a monthly cash payment for nine (9) months or the Executive's COBRA health continuation period, whichever ends earlier, in an amount equal to the monthly employer contribution that the Company would have made to provide health insurance to the Executive if the Executive had remained employed by the Company.

The amounts payable under Section 6(a) and (b), as applicable, shall be paid out in substantially equal installments in accordance with the Company's payroll practice over nine (9) months commencing within 60 days after the Date of Termination; provided, however, that if the 60-day period begins in one calendar year and ends in a second calendar year, the severance shall begin to be paid in the second calendar year by the last day of such 60-day period; provided, further, that the initial payment shall include a catch-up payment to cover amounts retroactive to the day immediately following the Date of Termination. Each payment pursuant to this Agreement is intended to constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b)(2).

7. **Restrictive Covenants.** The terms of the Employee Non-Competition, Non-Solicitation, Confidentiality and Assignment Agreement, dated July 31, 2014 (the "Restrictive Covenants"), appended as Exhibit A, continue to be in full force and effect and are incorporated by reference as material terms of this Agreement. The Executive hereby reaffirms the Restrictive Covenants as material terms of this Agreement.

(a) **Third-Party Agreements and Rights.** The Executive hereby confirms that the Executive is not bound by the terms of any agreement with any previous employer or other party which restricts in any way the Executive's use or disclosure of information or the Executive's engagement in any business. The Executive represents to the Company that the Executive's execution of this Agreement, the Executive's employment with the Company and the performance of the Executive's proposed duties for the Company will not violate any obligations the Executive may have to any such previous employer or other party. In the Executive's work for the Company, the Executive will not disclose or make use of any information in violation of any agreements with or rights of any such previous employer or other party, and the Executive will not bring to the premises of the Company any copies or other tangible embodiments of non-public information belonging to or obtained from any such previous employment or other party.

(b) **Litigation and Regulatory Cooperation.** During and after the Executive's employment, the Executive shall cooperate fully with the Company in the defense or prosecution of any claims or actions now in existence or which may be brought in the future against or on behalf of the Company which relate to events or occurrences that transpired while the Executive was employed by the Company. The Executive's full cooperation in connection with such claims or actions shall include, but not be limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness on behalf of the Company at mutually convenient times. During and after the Executive's employment, the Executive also shall cooperate fully with the Company in connection with any investigation or review of any federal, state or local regulatory authority as any such investigation or review relates to events or occurrences that transpired while the Executive was employed by the Company. The Company shall reimburse the Executive for any reasonable out-of-pocket expenses incurred in connection with the Executive's performance of obligations pursuant to this Section 7(b).

(c) **Relief.** The Executive agrees that it would be difficult to measure any damages caused to the Company which might result from any breach by the Executive of the promises set forth in this Section 7, and that in any event money damages would be an inadequate remedy for any such breach. Accordingly, the Executive agrees that if the Executive breaches, or proposes to breach, any portion of this Agreement, the Company shall be entitled, in addition to all other remedies that it may have, to an injunction or other appropriate equitable relief to restrain any such breach without showing or proving any actual damage to the Company. In addition, in the event the Executive breaches the Restrictive Covenants during a period when he is receiving Severance, the Company shall have the right to suspend or terminate the Severance. Such suspension or termination shall not limit the Company's other options with respect to relief for such breach and shall not relieve the Executive of his duties under this Agreement.

8. **Additional Limitation.**

(a) Anything in this Agreement to the contrary notwithstanding, in the event that the amount of any compensation, payment or distribution by the Company to or for the benefit of the Executive, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, calculated in a manner consistent with Section 280G of the Code and the applicable regulations thereunder (the "Severance Payments"), would be subject to the excise tax imposed by Section 4999 of the Code, the following provisions shall apply:

(i) If the Severance Payments, reduced by the sum of (A) the Excise Tax and (B) the total of the federal, state, and local income and employment taxes payable by the Executive on the amount of the Severance Payments which are in excess of the Threshold Amount, are greater than or equal to the Threshold Amount, the Executive shall be entitled to the full amount of Severance Payments.

(ii) If the Threshold Amount is less than (x) the Severance Payments, but greater than (y) the Severance Payments reduced by the sum of (A) the Excise Tax and (B) the total of the federal, state, and local income and employment taxes on the amount of the Severance Payments which are in excess of the Threshold Amount, then the Severance Payments shall be reduced (but not below zero) to the extent necessary so that the sum of all Severance Payments shall not exceed the Threshold Amount. In such event, the Severance Payments shall be reduced in the following order: (1) cash payments not subject to Section 409A of the Code; (2) cash payments subject to Section 409A of the Code; (3) equity-based payments and acceleration; and (4) non-cash forms of benefits. To the extent any payment is to be made over time (e.g., in installments, etc.), then the payments shall be reduced in reverse chronological order.

(b) For the purposes of this Section 8, "Threshold Amount" shall mean three times the Executive's "base amount" within the meaning of Section 280G(b)(3) of the Code and the regulations promulgated thereunder less one dollar (\$1.00); and "Excise Tax" shall mean the excise tax imposed by Section 4999 of the Code, and any interest or penalties incurred by the Executive with respect to such excise tax.

(c) The determination as to which of the alternative provisions of Section 8(a) above shall apply to the Executive shall be made by a nationally recognized accounting firm selected by the Company (the "Accounting Firm"), which shall provide detailed supporting calculations both to the Company and the Executive within 15 business days of the Date of Termination, if applicable, or at such earlier time as is reasonably requested by the Company or the Executive. For purposes of determining which of the alternative provisions of Section 8(a) above shall apply, the Executive shall be deemed to pay federal income taxes at the highest marginal rate of federal income taxation applicable to individuals for the calendar year in which the determination is to be made, and state and local income taxes at the highest marginal rates of individual taxation in the state and locality of the Executive's residence on the Date of Termination, net of the maximum reduction in federal income taxes which could be obtained from deduction of such state and local taxes. Any determination by the Accounting Firm shall be binding upon the Company and the Executive.

**9. Section 409A.**

(a) Anything in this Agreement to the contrary notwithstanding, if at the time of the Executive's "separation from service" within the meaning of Section 409A of the Code, the Company determines that the Executive is a "specified employee" within the meaning of Section 409A(a)(2)(B)(i) of the Code, then to the extent any payment or benefit that the Executive becomes entitled to under this Agreement on account of the Executive's separation from service would be considered deferred compensation subject to the 20 percent additional tax imposed pursuant to Section 409A(a) of the Code as a result of the application of Section 409A(a)(2)(B)(i) of the Code, such payment shall not be payable and such benefit shall not be provided until the date that is the earlier of (A) six months and one day after the Executive's separation from service, or (B) the Executive's death.

(b) The parties intend that this Agreement will be administered in accordance with Section 409A of the Code. To the extent that any provision of this Agreement is ambiguous as to its compliance with Section 409A of the Code, the provision shall be read in such a manner so that all payments hereunder comply with Section 409A of the Code. The parties agree that this Agreement may be amended, as reasonably requested by either party, and as may be necessary to fully comply with Section 409A of the Code and all related rules and regulations in order to preserve the payments and benefits provided hereunder without additional cost to either party.

(c) All in-kind benefits provided and expenses eligible for reimbursement under this Agreement shall be provided by the Company or incurred by the Executive during the time periods set forth in this Agreement. All reimbursements shall be paid as soon as administratively practicable, but in no event shall any reimbursement be paid after the last day of the taxable year following the taxable year in which the expense was incurred. The amount of in-kind benefits provided or reimbursable expenses incurred in one taxable year shall not affect the in-kind benefits to be provided or the expenses eligible for reimbursement in any other taxable year. Such right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit.

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(d) To the extent that any payment or benefit described in this Agreement constitutes "non-qualified deferred compensation" under Section 409A of the Code, and to the extent that such payment or benefit is payable upon the Executive's termination of employment, then such payments or benefits shall be payable only upon the Executive's "separation from service." The determination of whether and when a separation from service has occurred shall be made in accordance with the presumptions set forth in Treasury Regulation Section 1.409A-1(h).

(e) The Company makes no representation or warranty and shall have no liability to the Executive or any other person if any provisions of this Agreement are determined to constitute deferred compensation subject to Section 409A of the Code but do not satisfy an exemption from, or the conditions of, such Section.

**10. Withholding.** All payments made by the Company to the Executive under this Agreement shall be net of any tax or other amounts required to be withheld by the Company under applicable law.

**11. Notice and Date of Termination.**

(a) Notice of Termination. The Executive's employment with the Company may be terminated by the Company or the Executive at any time and for any reason. During the Term, any purported termination of the Executive's employment (other than by reason of death) shall be communicated by written Notice of Termination from one party hereto to the other party hereto in accordance with this Section 11. For purposes of this Agreement, a "Notice of Termination" shall mean a notice which shall indicate the specific termination provision in this Agreement relied upon.

(b) Date of Termination. "Date of Termination" shall mean: (i) if the Executive's employment is terminated by his death, the date of his death; (ii) if the Executive's employment is terminated on account of Executive's Disability or by the Company for Cause, the date on which Notice of Termination is given; (iii) if the Executive's employment is terminated by the Company without Cause the date on which a Notice of Termination is given; (iv) if the Executive's employment is terminated by the Executive for any reason except for Good Reason during a Sale Event Period, 30 days after the date on which a Notice of Termination is given, and (v) if the Executive's employment is terminated by the Executive with Good Reason during a Sale Event Period, the date on which a Notice of Termination is given after the end of the Cure Period. Notwithstanding the foregoing, in the event that the Executive gives a Notice of Termination to the Company, the Company may unilaterally accelerate the Date of Termination and such acceleration shall not result in a termination by the Company for purposes of this Agreement.

**12. No Mitigation.** The Company agrees that, if the Executive's employment by the Company is terminated during the term of this Agreement, the Executive is not required to seek other employment or to attempt in any way to reduce any amounts payable to the Executive by the Company pursuant to Section 5 or Section 6 hereof. Further, the amount of any payment provided for in this Agreement shall not be reduced by any compensation earned by the Executive as the result of employment by another employer.

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**13. Consent to Jurisdiction.** The parties hereby consent to the jurisdiction of the Superior Court of the State of Michigan and the United States District Court in Michigan. Accordingly, with respect to any such court action, the Executive (a) submits to the personal jurisdiction of such courts; (b) consents to service of process; and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.

14. **Integration.** This Agreement constitutes the entire agreement between the parties with respect to compensation, severance pay, benefits and accelerated vesting and supersedes in all respects all prior agreements between the parties concerning such subject matter, including without limitation the Former Employment Agreement and any offer letter or employment agreement relating to the Executive's employment relationship with the Company. Provided, and notwithstanding the foregoing, the Restrictive Covenants and any other agreement relating to confidentiality, noncompetition, nonsolicitation or assignment of inventions shall not be superseded by this Agreement and the Executive acknowledges and agrees that any such agreement shall remain in full force and effect.

15. **Successor to the Executive.** This Agreement shall inure to the benefit of and be enforceable by the Executive's personal representatives, executors, administrators, heirs, distributees, devisees and legatees. In the event of the Executive's death after a Terminating Event but prior to the completion by the Company of all payments due him under this Agreement, the Company shall continue such payments to the Executive's beneficiary designated in writing to the Company prior to his death (or to his estate, if the Executive fails to make such designation).

16. **Enforceability.** If any portion or provision of this Agreement (including, without limitation, any portion or provision of any Section of this Agreement) shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

17. **Waiver.** No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

18. **Notices.** Any notices, requests, demands and other communications provided for by this Agreement shall be sufficient if in writing and delivered in person or sent by a nationally recognized overnight carrier service or by registered or certified mail, postage prepaid, return receipt requested, to the Executive at the last address the Executive has filed in writing with the Company, or to the Company at its main office, attention of the Board of Directors.

19. **Amendment.** This Agreement may be amended or modified only by a written instrument signed by the Executive and by a duly authorized representative of the Company.

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20. **Effect on Other Plans and Agreements.** An election by the Executive to resign for Good Reason under the provisions of this Agreement shall not be deemed a voluntary termination of employment by the Executive for the purpose of interpreting the provisions of any of the Company's benefit plans, programs or policies. Nothing in this Agreement shall be construed to limit the rights of the Executive under the Company's benefit plans, programs or policies except as otherwise provided in Section 7 hereof, and except that the Executive shall have no rights to any severance benefits under any Company severance pay plan, offer letter or otherwise. In the event that the Executive is party to an agreement with the Company providing for payments or benefits under such agreement and this Agreement, the terms of this Agreement shall govern and Executive may receive payment under this Agreement only and not both. Further, Section 5 and Section 6 of this Agreement are mutually exclusive and in no event shall Executive be entitled to payments or benefits pursuant to Section 5 and Section 6 of this Agreement.

21. **Governing Law.** This is a Michigan contract and shall be construed under and be governed in all respects by the laws of the State of Michigan, without giving effect to the conflict of laws principles.

22. **Successor to Company.** The Company shall require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Company expressly to assume and agree to perform this Agreement to the same extent that the Company would be required to perform it if no succession had taken place. Failure of the Company to obtain an assumption of this Agreement at or prior to the effectiveness of any succession shall be a material breach of this Agreement.

23. **Gender Neutral.** Wherever used herein, a pronoun in the masculine gender shall be considered as including the feminine gender unless the context clearly indicates otherwise.

24. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be taken to be an original; but such counterparts shall together constitute one and the same document.

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IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date and year first above written.

**ESPERION THERAPEUTICS, INC.**

By: /s/ Tim Mayleben

Name: Tim Mayleben

Title: President & CEO

**EXECUTIVE:**

/s/ Narendra Lalwani

Narendra Lalwani

