

IDERA PHARMACEUTICALS, INC.  
Form SC 13D/A  
November 16, 2012

# SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

## SCHEDULE 13D

**(Rule 13d-101)**

INFORMATION TO BE INCLUDED IN STATEMENTS FILED PURSUANT

TO RULE 13d-1(a) AND AMENDMENTS THERETO FILED PURSUANT

TO RULE 13d-2(a)

(Amendment No. 1)\*

**Idera Pharmaceuticals, Inc.**

(Name of Issuer)

Common Stock, \$0.001 par value per share

(Title of Class of Securities)

45168K306

(CUSIP number)

Youssef El Zein

c/o Pillar Invest Offshore SAL

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**Starco Center, Bloc B, Third Floor**

**Omar Daouk Street**

**Beirut 2020-3313, Lebanon**

**(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)**

**November 9, 2012**

**(Date of Event Which Requires Filing of this Statement)**

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of Rule 13d-1(e), 13d-1(f) or 13d-1(g), check the following box " ".

(Continued on the following pages)

(Page 1 of 18 Pages)

\* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page. The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 (the "Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

1. NAMES OF REPORTING PERSONS

Pillar Pharmaceuticals I, L.P.

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)  (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS\*

WC

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Cayman Islands

7. SOLE VOTING POWER

NUMBER OF

5,525,481(1)

SHARES

8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY

0

EACH

9. SOLE DISPOSITIVE POWER

REPORTING

PERSON

5,525,481(1)

10. SHARED DISPOSITIVE POWER

WITH

0

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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5,525,481(1)

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES ..

13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW 11

19.9%(1)

14. TYPE OF REPORTING PERSON

PN

(1) This Amendment No. 1 to Schedule 13D is filed by Pillar Pharmaceuticals I, L.P. ( Pillar ), Pillar Pharmaceuticals II, L.P. ( Pillar II ), Pillar Invest Corporation ( Pillar GP ) and Youssef El Zein (together with Pillar, Pillar II and Pillar GP, the Reporting Persons ). The Reporting Persons expressly disclaim status as a group for purposes of this Amendment No. 1 to Schedule 13D. Pillar, Pillar II and Pillar GP expressly disclaim beneficial ownership of any shares of the Issuer's common stock, par value \$0.001 per share (the Common Stock ), held directly by Mr. El Zein, and Mr. El Zein expressly disclaims beneficial ownership of any shares of Common Stock held directly by

Pillar, Pillar II and indirectly by Pillar GP (including the Besancon Shares). Pillar and Pillar II expressly disclaim beneficial ownership of any shares of Common Stock over which Pillar GP has investment discretion (the Besancon Shares) pursuant to that certain Advisory Agreement (the Advisory Agreement) between Pillar GP and Participations Besancon (Besancon). Besancon is an investment fund having no affiliation with the Reporting Persons. Pillar directly holds (i) 1,124,260 shares of the Issuer's Series D Convertible Preferred Stock (the Series D Preferred Stock), which are convertible at any time, at the holder's election, on a 1-for-5.5736 basis (subject to adjustment and the Conversion Cap), into shares of Common Stock; and (ii) warrants (the Series D Warrants) representing 2,810,650 shares of Common Stock, which are presently exercisable (subject to the Conversion Cap). Pillar II directly holds (i) 313,341 shares of the Issuer's Series E Convertible Preferred Stock (the Series E Preferred Stock), which are convertible at any time, at the holder's election, on a 1-for-20 basis (subject to adjustment and the Conversion Cap), into shares of Common Stock; and (ii) warrants (the Series E Warrants) representing 6,266,820 shares of Common Stock, which are presently exercisable (subject to the Conversion Cap). Pursuant to the Advisory Agreement, Pillar GP also has investment discretion over 110,901 shares of Series E Preferred Stock, which are presently convertible at any time, at the holder's election, on a 1-for-20 basis (subject to adjustment and the Conversion Cap), into shares of Common Stock, and Series E Warrants representing 2,218,020 shares of Common Stock, which are presently exercisable (subject to the Conversion Cap), in each case which are held directly by Besancon. Mr. El Zein directly holds 586,101 shares of Common Stock and options to buy 76,418 shares of Common Stock, which are exercisable within sixty days of the Closing Date. Pursuant to Rule 13d-3 of the Securities Exchange Act of 1934 (the Exchange Act), the number of shares of Common Stock beneficially owned by the Reporting Persons, and the applicable percentage, represent (prior to the application of the Conversion Cap and the Voting Cap) (A) shares of Common Stock into which Pillar's shares of Series D Preferred Stock are convertible assuming that only Pillar converted its shares of Series D Preferred Stock and that no other holder of Series D Preferred Stock converted any shares of Series D Preferred Stock; (B) shares of Common Stock issued upon Pillar's exercise of its Series D Warrants, assuming that no other holder of Series D Warrants exercisable for shares of Common Stock exercised any such Series D Warrants; (C) shares of Common Stock into which Pillar II's shares of Series E Preferred Stock are convertible assuming that only Pillar II converted its shares of Series E Preferred Stock and that no other holder of Series E Preferred Stock converted any shares of Series E Preferred Stock; (D) shares of Common Stock issued upon Pillar II's exercise of its Series E Warrants, assuming that no other holder of Series E Warrants exercisable for shares of Common Stock exercised any such Series E Warrants; (E) shares of Common Stock into which Besancon's shares of Series E Preferred Stock are convertible assuming that only Besancon converted its shares of Series E Preferred Stock and that no other holder of Series E Preferred Stock converted any shares of Series E Preferred Stock; (F) shares of Common Stock issued upon Besancon's exercise of its Series E Warrants, assuming that no other holder of Series E Warrants exercisable for shares of Common Stock exercised any such Series E Warrants; and (G) shares of Common Stock issued upon Mr. El Zein's exercise of his vested options, assuming that no other holder of options exercisable for shares of Common Stock exercises any such options. In addition, the terms of the Series D Preferred Stock and the Series E Preferred Stock (together, the Preferred Stock), and the Series D Warrants and the Series E Warrants (together, the Warrants), provide that the Issuer shall not effect (1) any conversion of Preferred Stock or (2) any exercise of Warrants, for a number of shares of Common Stock in excess of that number of shares of Common Stock which, upon giving effect to such conversion or exercise, as the case may be, would cause (a) the aggregate number of shares of Common Stock beneficially owned by Pillar and Pillar II and their affiliates to exceed 19.99% of the total number of issued and outstanding shares of Common Stock of the Issuer as of the Closing Date, or (b) the combined voting power of the securities of the Issuer beneficially owned by Pillar and Pillar II and their affiliates to exceed 19.99% of the combined voting power of all of the securities of the Issuer outstanding as of the Closing Date (collectively, the Conversion Cap). In addition, the terms of the Preferred Stock provide that, for so long as the total number of shares of Common Stock beneficially owned by Pillar and Pillar II and their affiliates exceeds 19.99% (subject to an increase to 25% upon approval of the stockholders of the Issuer as described below) of the then outstanding shares of Common Stock, in any election of directors and in any other vote to be taken by the stockholders of the Issuer, Pillar and Pillar II and their affiliates will vote such number of shares of Common Stock beneficially owned by them in excess of 19.99% (subject to an increase to 25% upon approval of the stockholders of the Issuer as described below) in the same manner as, and in the same proportion to, the votes cast by the other holders of the Issuer's Common Stock or other voting securities (the Voting Cap). Accordingly, the 5,525,481 shares of Common Stock reported above represent 19.99% of the 27,641,229 shares of Common Stock outstanding as of the Closing Date (as defined below).

1. NAMES OF REPORTING PERSONS

Pillar Pharmaceuticals II, L.P.

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)  (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS\*

WC

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Cayman Islands

7. SOLE VOTING POWER

NUMBER OF

SHARES 5,525,481(1)  
8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0  
EACH 9. SOLE DISPOSITIVE POWER

REPORTING

PERSON 5,525,481(1)  
10. SHARED DISPOSITIVE POWER

WITH

0

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

5,525,481(1)

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES ..

13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW 11

19.9%(1)

14. TYPE OF REPORTING PERSON

PN

1. NAMES OF REPORTING PERSONS

Pillar Invest Corporation

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)  (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS\*

AF

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Cayman Islands

7. SOLE VOTING POWER

NUMBER OF

5,525,481(1)

SHARES

8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY

0

EACH

9. SOLE DISPOSITIVE POWER

REPORTING

PERSON

5,525,481(1)

10. SHARED DISPOSITIVE POWER

WITH

0

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON



5,525,481(1)

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES ..

13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW 11

19.9%(1)

14. TYPE OF REPORTING PERSON

PN

1. NAMES OF REPORTING PERSONS

Youssef El Zein

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)  (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS\*

AF

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

France and Lebanon

7. SOLE VOTING POWER

NUMBER OF

5,525,481(1)

SHARES

8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY

0

EACH

9. SOLE DISPOSITIVE POWER

REPORTING

PERSON

5,525,481(1)

10. SHARED DISPOSITIVE POWER

WITH

0

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

5,525,481(1)

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES ..

13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW 11

19.9%(1)

14. TYPE OF REPORTING PERSON

IN

**ITEM 1. Security and Issuer.**

This Amendment No. 1 to Schedule 13D relates to the common stock, par value \$0.001 per share (the Common Stock ), of Idera Pharmaceuticals, Inc., a corporation organized under the laws of the state of Delaware (the Company or the Issuer ), with its principal executive offices located at 167 Sidney Street, Cambridge, MA 02139. Information given in response to each item shall be deemed incorporated by reference in all other items, as applicable.

**ITEM 2. Identity and Background.**

(a) This Amendment No. 1 to Schedule 13D is being filed by Pillar Pharmaceuticals I, L.P., a Cayman Island limited partnership ( Pillar ), Pillar Pharmaceuticals II, L.P., a Cayman Island limited partnership ( Pillar II ), Pillar Invest Corporation, a Cayman Island exempted company ( Pillar GP ), and Youssef El Zein.

Each of the foregoing persons or entities is referred to herein as a Reporting Person or collectively as the Reporting Persons.

Pillar is the direct holder of the shares of Series D Convertible Preferred Stock (the Series D Preferred Stock ) and the warrants (the Series D Warrants ) to purchase shares of Common Stock described in this Amendment No. 1 to Schedule 13D. Pillar II is the direct holder of the shares of Series E Convertible Preferred Stock (the Series E Preferred Stock ) and the warrants (the Series E Warrants ) to purchase shares of Common Stock described in this Amendment No. 1 to Schedule 13D. Mr. El Zein is the direct holder of the shares of Common Stock and options to purchase shares of Common Stock described in this Amendment No. 1 to Schedule 13D. Pillar and Pillar II are a private investment funds engaged in the business of acquiring, holding and disposing of investments in various companies. Pillar GP is the general partner of Pillar and Pillar II. Pursuant to that certain Advisory Agreement (the Advisory Agreement ) between Pillar GP and Participations Besancon ( Besancon ), Pillar GP also has investment discretion over shares of Series E Preferred Stock and Series E Warrants held directly by Besancon. Besancon is an investment fund having no affiliation with the Reporting Persons. Mr. El Zein is a director and controlling stockholder of Pillar GP.

(b) The business address of each of the foregoing Reporting Persons is c/o Pillar Invest Offshore SAL, Starco Center, Bloc B, Third Floor, Omar Daouk Street, Beirut 2020-3313, Lebanon.

(c) Youssef El Zein is a director and controlling stockholder of Pillar GP. Pillar GP's principal business consists of investment management.

(d) During the last five years, none of the Reporting Persons has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors).

(e) During the last five years, none of the Reporting Persons were a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

(f) Youssef El Zein is a citizen of France and the Republic of Lebanon.

**ITEM 3. Source and Amount of Funds or Other Consideration.**

The information set forth in Item 4 hereof is hereby incorporated by reference into this Item 3, as applicable.

**ITEM 4. Purpose of Transaction.*****Series D Financing*****Convertible Preferred Stock and Warrant Purchase Agreement**

On November 4, 2011, Pillar and the Issuer entered into a Convertible Preferred Stock and Warrant Purchase Agreement (the Series D Purchase Agreement ) pursuant to which Pillar agreed to acquire from the Issuer (i)

1,124,260 shares of Series D Preferred Stock and (ii) Series D Warrants to purchase 2,810,650 shares of Common Stock, for an aggregate purchase price of \$9,499,997. The transaction closed on November 4, 2011 (the Series D Closing Date ). The source of funds for the purchase was the working capital of Pillar.

#### *Limitations on Conversion and Exercise*

The terms of the Series D Preferred Stock and the Series D Warrants provide that the Issuer shall not effect (i) any conversion of Series D Preferred Stock or (ii) any exercise of Series D Warrants, for a number of shares of Common Stock in excess of that number of shares of Common Stock which, upon giving effect to such conversion or exercise, as the case may be, would cause (A) the aggregate number of shares of Common Stock beneficially owned by Pillar and its affiliates to exceed 19.99% of the total number of issued and outstanding shares of Common Stock of the Issuer as of the Series D Closing Date, or (B) the combined voting power of the securities of the Issuer beneficially owned by Pillar and its affiliates to exceed 19.99% of the combined voting power of all of the securities of the Issuer outstanding as of the Series D Closing Date. As described below, the limitation on the exercise of the Series D Warrants was amended pursuant to the Warrant Amendment.

#### *Standstill*

The Series D Purchase Agreement provides that, for so long as the total number of shares of Common Stock beneficially owned by Pillar and its affiliates exceeds 15% of the then outstanding shares of Common Stock, neither Pillar nor its affiliates will, directly or indirectly (unless specifically invited in writing by the Issuer to do so):

(a) effect or seek, initiate, offer or propose (whether publicly or otherwise) or participate in, any acquisition of any securities (or beneficial ownership thereof) or assets of the Issuer; any tender or exchange offer, merger, consolidation or other business combination involving the Issuer; any recapitalization, restructuring, liquidation, dissolution or other extraordinary transaction with respect to the Issuer; or any solicitation of proxies or consents to vote any voting securities of the Issuer; provided, that this clause (a) shall not restrict the ability of any director of the Issuer that is affiliated with Pillar to (i) acquire, exercise or dispose of any stock options or other equity securities of the Issuer received as compensation for serving as a director or (ii) perform his or her duties as a director of the Issuer;

(b) form, join or in any way participate in a group with respect to any securities of the Issuer;

(c) otherwise act, alone or in concert with others, to seek to control or influence the management, the Company's Board of Directors (the Board) or policies of the Issuer;

(d) take any action which could reasonably be expected to force the Issuer to make a public announcement regarding any of the types of matters set forth in clause (a), (b) or (c) above; or

(e) enter into any agreements, discussions or arrangements with any third party with respect to any of the foregoing.

This standstill provision shall not restrict Pillar's ability to exercise its preemptive rights as more fully described below under the heading Preemptive Rights .

#### *Voting*

On any matter presented to the stockholders of the Issuer for their action or consideration at any meeting of stockholders of the Corporation, each holder of outstanding shares of Series D Preferred Stock shall be entitled to cast a number of votes equal to the number of whole shares of Common Stock into which the shares of Series D Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter.

The Series D Purchase Agreement provides that, for so long as the total number of shares of Common Stock beneficially owned by Pillar and its affiliates exceeds 15% of the then outstanding shares of Common Stock, in any election of directors and in any other vote to be taken by the stockholders of the Issuer (whether taken at an annual or special meeting of stockholders or by written action), Pillar and its affiliates will vote such number of shares of Common Stock beneficially owned by Pillar and its affiliates in excess of 15% in the same manner as, and in the same proportion to, the votes cast by the other holders of the Company's Common Stock or other voting securities. As described below, this voting limitation was amended pursuant to the Purchase Agreement Amendment.

*Preemptive Rights*

The Series D Purchase Agreement provides that, in the event the Issuer on or prior to the earlier of (i) November 4, 2014 and (ii) the day that Pillar holds a number of shares of Series D Preferred Stock (including shares of Common Stock issued upon conversion of the Series D Preferred Stock) which is less than 50% of the number of shares of Series D Preferred Stock purchased by Pillar, proposes to:

(a) privately sell and issue securities of the Issuer, Pillar shall have the option to purchase, on the same terms and conditions offered by the Issuer to the other purchasers of such securities in such additional financing, up to that percentage of the securities sold in such additional financing equal to (A) the number of shares then held by Pillar as compared to (B) the total number of shares then outstanding, which pro rata amount shall not exceed 19.99% of such additional financing or

(b) enter into a loan financing for the purpose of raising capital and not for the purpose of purchasing equipment, or privately sell and issue convertible debt securities or preferred stock of the Issuer that ranks senior to the Preferred Stock, Pillar shall have the option to participate in such loan financing or other senior financings, on the same terms and conditions offered by the Issuer to the other participants or purchasers of securities in such senior financings, up to that percentage of the amount of the loan financing or of the securities sold in such senior financing equal to the product of:

(I) A fraction, the numerator of which equals the number of shares then held by Pillar and the denominator of which equals the total number of shares issued to Pillar; and

(II) If the closing date of the senior financing is on or prior to (i) November 4, 2012, 50%, (ii) November 4, 2013, 40%, or (iii) November 4, 2014, 30%.

**Registration Rights Agreement**

In connection with the Series D Purchase Agreement, Pillar entered into a Registration Rights Agreement, dated November 4, 2011 (the Series D Registration Rights Agreement), with the Issuer. The Series D Registration Rights Agreement provides that the Company will file a resale registration statement (the Series D Resale Registration Statement) covering the shares of Common Stock issuable upon conversion of the Series D Preferred Stock and exercise of the Series D Warrants. The Issuer agreed to use its reasonable best efforts to cause to become effective the Series D Resale Registration Statement on or prior to February 2, 2012.

If (i) the Series D Resale Registration Statement is not declared effective on or before March 4, 2012 or (ii) after the Series D Resale Registration Statement has been declared effective, sales of any of the Registrable Securities (as defined in the Series D Registration Rights Agreement) cannot be made pursuant to such Series D Resale Registration Statement because such Series D Resale Registration Statement has been suspended (except as a result of a permitted suspension as provided in the Series D Registration Rights Agreement), then the Issuer shall pay to Pillar an amount equal to the product of (A) the aggregate purchase price of the Series D Preferred Stock then held by Pillar, multiplied by (B) one hundredths (.01), for each thirty (30) day period thereafter. Notwithstanding the foregoing, in no event shall the Issuer be obligated to make payments to Pillar in an aggregate amount that exceeds 10% of the aggregate purchase price paid by Pillar for the Series D Preferred Stock.

The Issuer will pay all registration expenses, other than underwriting discounts and commissions, related to the Issuer's performance of the Series D Registration Rights Agreement. The Series D Registration Rights Agreement contains customary cross-indemnification provisions.

The foregoing descriptions of the Series D Purchase Agreement and the Series D Registration Rights Agreement and of the terms the Certificate of Designations, Preferences and Rights of the Series D Preferred Stock and the

Form of Series D Warrant issued to Pillar (collectively, the Series D Transaction Documents ), do not purport to be complete and are qualified in their entirety by the terms of each such document, which are attached hereto as Exhibit 2, Exhibit 3, Exhibit 4 and Exhibit 5, respectively, and are incorporated herein by reference.

### *Series E Financing*

#### **Convertible Preferred Stock and Warrant Purchase Agreement**

On November 9, 2012, Pillar II, Participations Besancon and the Issuer entered into a Convertible Preferred Stock and Warrant Purchase Agreement (the Series E Purchase Agreement ) pursuant to which (i) Pillar II acquired from the Issuer (a) 313,341 shares of Series E Preferred Stock (convertible into 6,266,820 shares of Common Stock) and (b) Series E Warrants to purchase 6,266,820 shares of Common Stock, and (ii) Participations Besancon acquired from the Issuer (a) 110,901 shares of Series E Preferred Stock (convertible into 2,218,020 shares of Common Stock) and (b) Series E Warrants to purchase 2,218,020 shares of Common Stock for an aggregate purchase price of \$6,999,993. The transaction closed on November 9, 2012 (the Closing Date ). In connection with the closing of the transaction, Abdul-Wahab Umari, a managing partner of Pillar GP, was elected to the Board upon the recommendation of its Nominating and Corporate Governance Committee effective immediately following the closing of the transactions contemplated by the Series E Purchase Agreement. The source of funds for the purchase by Pillar II was the working capital of Pillar II and the source of funds for the purchase by Besancon was the working capital of Besancon.

#### *Limitations on Transfer*

The Series E Purchase Agreement provides restrictions on the transfer of any securities issued to Pillar II and Besancon (including securities convertible into or exercisable for Common Stock) pursuant to the Series E Purchase Agreement, including to not sell or transfer any such securities in one or a series of transactions if such transfer would, in the aggregate, result in the transfer more than 5% of the then outstanding combined voting power of the outstanding securities of the Company (excluding from this restriction certain transfers to permitted transferees or in connection with an underwritten public offering by the Company that has been approved by the Board).

#### *Limitations on Conversion and Exercise*

The terms of the Series E Preferred Stock and the Series E Warrants provide that the Issuer shall not effect (i) any conversion of Series E Preferred Stock or (ii) any exercise of Series E Warrants, for a number of shares of Common Stock in excess of that number of shares of Common Stock which, upon giving effect to such conversion or exercise, as the case may be, would cause (A) the aggregate number of shares of Common Stock beneficially owned by Pillar II, Besancon and/or its affiliates to exceed 19.99% (subject to an increase to 35% upon the approval by the stockholders of the Company of the issuance and sale by the Company to Pillar II and Besancon (together with all prior issuances and sales to Pillar) of a number of Shares of Common Stock (including securities convertible into or exercisable for Common Stock) that is greater than 19.99% of the outstanding Common Stock or outstanding voting power of the Company after such issuance and sale in accordance with Nasdaq Listing Rule 5636(b) (the Nasdaq Proposal )) of the total number of issued and outstanding shares of Common Stock of the Issuer as of the Closing Date, or (B) the combined voting power of the securities of the Issuer beneficially owned by Pillar II, Besancon and/or its affiliates to exceed 19.99% (subject to an increase to 35% upon stockholder approval of the Nasdaq Proposal) of the combined voting power of all of the securities of the Issuer outstanding as of the Closing Date.

#### *Standstill*

The Series E Purchase Agreement provides that, for so long as the total number of shares of Common Stock beneficially owned by Pillar II, Besancon and/or its affiliates exceeds 15% of the then outstanding shares of Common Stock, neither Pillar II, Besancon nor their respective affiliates will, directly or indirectly (unless specifically invited in writing by the Issuer to do so):

(a) effect or seek, initiate, offer or propose (whether publicly or otherwise) or participate in, any acquisition of any securities (or beneficial ownership thereof) or assets of the Issuer; any tender or exchange offer, merger, consolidation or other business combination involving the Issuer; any recapitalization, restructuring, liquidation, dissolution or other extraordinary transaction with respect to the Issuer; or any solicitation of proxies or consents to vote any voting securities of the Issuer; provided, that this clause (a) shall not restrict the ability of any director of the Issuer that is affiliated with Pillar II or Besancon to (i) acquire, exercise or dispose of any stock options or other equity securities of the Issuer received as compensation for serving as a director or (ii) perform his or her duties as a director of the Issuer;

(b) form, join or in any way participate in a group with respect to any securities of the Issuer;

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(c) otherwise act, alone or in concert with others, to seek to control or influence the management, Board or policies of the Issuer;

(d) nominate or otherwise support the election of any person as a director of the Company except as approved by the Board, subject to certain exceptions;



(e) take any action which could reasonably be expected to force the Issuer to make a public announcement regarding any of the types of matters set forth in clause (a), (b), (c) or (d) above; or

(f) enter into any agreements, discussions or arrangements with any third party with respect to any of the foregoing.

This standstill provision shall not restrict Pillar II's or Besancon's ability to exercise its preemptive rights as more fully described below under the heading "Preemptive Rights".

#### *Voting; Protective Provisions*

For so long as at least 84,849 shares of Series E Preferred Stock (subject to adjustment) remain outstanding, the Company has agreed that it will not, directly or indirectly, (a) amend the Certificate of Incorporation or bylaws of the Company in a manner that adversely and uniquely affects the Series E Preferred Stock, (b) except as expressly permitted by the Certificate of Designations for the Series E Preferred Stock, purchase or redeem or pay or declare any dividend or make any distribution on, any shares of capital stock of the Company, or (c) recapitalize or reclassify any of the Common Stock, without in each case the written consent or affirmative vote of the holders of at least 51% of the then outstanding shares of Series E Preferred Stock (in addition to any other vote required by law or the Certificate of Incorporation).

Unless and until the stockholders of the Company approve the Nasdaq Proposal, the Series E Preferred Stock will have no voting rights. Subject to and effective upon the date that the stockholders of the Company approve the Nasdaq Proposal, each holder of outstanding shares of Series E Preferred Stock will be entitled to cast a number of votes equal to the lesser of (a) the number of whole shares of Common Stock into which the shares of Series E Preferred Stock held by such holder are convertible and (b) the product of the Voting Adjustment Percentage (as defined in the Certificate of Designations for the Series E Preferred Stock) multiplied by the number of whole shares of Common Stock into which the shares of Series E Preferred Stock held by such holder are convertible. The intent of the Voting Adjustment Percentage is to provide that the maximum aggregate voting power that the holders of Series E Preferred Stock and their affiliates may hold does not exceed 35% of the total outstanding voting power of the Company at any time. The Voting Adjustment Percentage does not modify the provisions set forth in the Series E Purchase Agreement that require the Pillar II, Besancon and their affiliates to vote any shares held by them in excess of the number of shares equal to 19.99% or 25%, as applicable, of the outstanding Common Stock (including shares of Common Stock issuable upon conversion or exercise of securities that are convertible into or exercisable for shares of Common Stock held by them and their affiliates) in the same manner and percentage as the holders of the Common Stock (other than Pillar II, Besancon and their affiliates) vote on such matter as more fully described below.

The Series E Purchase Agreement provides that, for so long as the total number of shares of Common Stock beneficially owned by Pillar II, Besancon and/or its affiliates exceeds 19.99% (subject to an increase to 25% upon stockholder approval of Nasdaq Proposal) of the then outstanding shares of Common Stock, in any election of directors and in any other vote to be taken by the stockholders of the Issuer (whether taken at an annual or special meeting of stockholders or by written action), Pillar II, Besancon and/or its affiliates will vote such number of shares of Common Stock beneficially owned by Pillar II, Besancon and/or its affiliates in excess of 19.99% (subject to an increase to 25% upon stockholder approval of Nasdaq Proposal) in the same manner as, and in the same proportion to, the votes cast by the other holders of the Company's Common Stock or other voting securities.

Each of Pillar II and Besancon agreed to refrain from exercising any dissenters' rights or rights of appraisal under applicable law at any time with respect to any sale of the Company to the extent such sale has been approved by the Board.

#### *Preemptive Rights*

The Series E Purchase Agreement provides that, in the event the Issuer on or prior to the earlier of (i) November 9, 2015 and (ii) the day that Pillar II or Besancon, respectively, holds a number of shares of Series E Preferred Stock (including shares of Common Stock issued upon conversion of the Series E Preferred Stock) which is less than 50% of the number of shares of Series E Preferred Stock purchased by Pillar II or Besancon, respectively, proposes to:

(a) privately sell and issue securities of the Issuer, Pillar II and Besancon, respectively, shall have the option to purchase, on the same terms and conditions offered by the Issuer to the other purchasers of such securities in such additional financing, up to that percentage of the securities sold in such additional financing equal to (A) the number of shares then held by each of Pillar II and Besancon, respectively, as compared to (B) the total number of shares then outstanding, which pro rata amount shall not exceed 19.99% (subject to an increase to 35% upon stockholder approval of Nasdaq Proposal) of such additional financing or

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(b) enter into a loan financing for the purpose of raising capital and not for the purpose of purchasing equipment, or privately sell and issue convertible debt securities or preferred stock of the Issuer that ranks senior to the Series E Preferred Stock, each of Pillar II and Besancon, respectively, shall have the option to participate in such loan financing or other senior financings, on the same terms and conditions offered by the Issuer to the other participants or purchasers of securities in such senior financings, up to that percentage of the amount of the loan financing or of the securities sold in such senior financing equal to the product of:

(I) A fraction, the numerator of which equals the number of shares then held by each of Pillar II and Besancon, respectively, and the denominator of which equals the total number of shares issued to each of Pillar II and Besancon, respectively; and

(II) If the closing date of the senior financing is on or prior to (i) November 9, 2013, 50%, (ii) November 9, 2014, 40%, or (iii) November 9, 2015, 30%.

### *Automatic Adjustments to Series D Preferred Stock and Series D Warrants*

As a result of the transactions contemplated by the Series E Purchase Agreement, the conversion price of the Series D Preferred Stock automatically adjusted downward to \$1.46 and the exercise price of the Series D Warrants automatically adjusted downward to \$1.46.

### **Registration Rights Agreement**

In connection with the Series E Purchase Agreement, Pillar II and Besancon entered into a Registration Rights Agreement, dated November 9, 2012 (the Series E Registration Rights Agreement ), with the Issuer. The Series E Registration Rights Agreement provides that the Company will file a resale registration statement (the

Series E Resale Registration Statement ) covering the shares of Common Stock issuable upon conversion of the Series E Preferred Stock and exercise of the Series E Warrants. The Issuer agreed to use its reasonable best efforts to cause to become effective the Series E Resale Registration Statement on or prior to February 7, 2013.

If (i) the Series E Resale Registration Statement is not declared effective on or before March 30, 2013 or (ii) after the Series E Resale Registration Statement has been declared effective, sales of any of the Registrable Securities (as defined in the Series E Registration Rights Agreement) cannot be made pursuant to such Series E Resale Registration Statement because such Series E Resale Registration Statement has been suspended (except as a result of a permitted suspension as provided in the Series E Registration Rights Agreement), then the Issuer shall pay to Pillar II and Besancon an amount equal to the product of (A) the aggregate purchase price of the Series E Preferred Stock then held by Pillar II and Besancon, multiplied by (B) one hundredths (.01), for each thirty (30) day period thereafter. Notwithstanding the foregoing, in no event shall the Issuer be obligated to make payments to Pillar II and Besancon in an aggregate amount that exceeds 10% of the aggregate purchase price paid by Pillar II and Besancon for the Series E Preferred Stock.

The Issuer will pay all registration expenses, other than underwriting discounts and commissions, related to the Issuer's performance of the Series E Registration Rights Agreement. The Series E Registration Rights Agreement contains customary cross-indemnification provisions.

#### **Amendment No. 1 to Series D Convertible Preferred Stock and Warrant Purchase Agreement**

In connection with the Series E Purchase Agreement, Pillar entered into Amendment No. 1 to Convertible Preferred Stock and Warrant Purchase Agreement, dated November 9, 2012 (the Purchase Agreement Amendment ), with the Issuer. The Purchase Agreement Amendment provides that, for so long as the total number of shares of Common Stock beneficially owned by Pillar or its affiliates exceeds 19.99% (subject to an increase to 25% upon stockholder approval of the Nasdaq Proposal) of the then outstanding shares of Common Stock, in any election of directors and in any other vote to be taken by the stockholders of the Issuer (whether taken at an annual or special meeting of stockholders or by written action), Pillar or its affiliates will vote such number of shares of Common Stock beneficially owned by Pillar or its affiliates in excess of 19.99% (subject to an increase to 25% upon stockholder approval of the Nasdaq Proposal) in the same manner as, and in the same proportion to, the votes cast by the other holders of the Company's Common Stock or other voting securities. Pillar agreed to refrain from exercising any dissenters' rights or rights of appraisal under applicable law at any time with respect to any sale of the Company to the extent such sale has been approved by the Board.

The Purchase Agreement Amendment also provides for certain restrictions on the transfer of any securities issued to Pillar (including securities convertible into or exercisable for Common Stock) pursuant to the Series D Purchase Agreement, including to not sell or transfer any such securities in one or a series of transactions if such transfer would, in the aggregate, result in the transfer more than 5% of the then outstanding combined voting power of the outstanding securities of the Company (excluding from this restriction certain transfers to permitted transferees or in connection with an underwritten public offering by the Company that has been approved by the Board).

#### **Amendment No. 1 to Common Stock Purchase Warrant**

In connection with the Series E Purchase Agreement, Pillar entered into Amendment No. 1 to Common Stock Purchase Warrant, dated November 9, 2012 (the Warrant Amendment ), with the Issuer. The Warrant Amendment provides that the exercise limitation set forth therein shall be amended to increase the 19.99% limitation on exercise to 35% upon the Company's receipt of stockholder approval of the Nasdaq Proposal.

The foregoing descriptions of the Series E Purchase Agreement and the Series E Registration Rights Agreement and of the terms the Certificate of Designations, Preferences and Rights of the Series E Preferred Stock and the Form of Series E Warrant issued to Pillar and Besancon, the Purchase Agreement Amendment and the Warrant Amendment (collectively, the Series E Transaction Documents ), do not purport to be complete and are qualified in their entirety by the terms of each such document, which are attached hereto as Exhibit 6, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10 and Exhibit 11, respectively, and are incorporated herein by reference.

#### **Additional Disclosure**

The Series D Preferred Stock, Series E Preferred Stock, Series D Warrants and Series E Warrants reported herein were acquired solely for investment purposes. The Reporting Persons do not have any present plans or proposals that relate to or would result in any change in the business, policies, management, structure or capitalization of the Issuer.

The Reporting Persons will continue to evaluate the business and prospects of the Issuer, and its present and future interest in, and intentions with respect to, the Issuer, and in connection therewith expects from time to time to consult with management and other stockholders of the Issuer. The Reporting Persons reserve the right to formulate plans and/or make proposals, and take such actions with respect to their investment in the Issuer, including subject to applicable law, (i) to hold its shares as a passive investor or as an active investor (whether or not as a member of a group with other beneficial owners of Shares or otherwise), (ii) to acquire beneficial ownership of additional shares in the open market, in privately negotiated transactions or otherwise, (iii) to dispose of all or part of its holdings of the shares, (iv) to take other actions which could involve one or more of the types of transactions or have one or more of the results described in Item 4 of this Amendment No. 1 to Schedule 13D, or (v) to change its intention with respect to any or all of the matters referred to in this Item 4.

Other than as described above and as set forth in the Series D Transaction Documents and the Series E Transaction Documents, the Reporting Persons do not have any plans or proposals which would result in any of the following:

- (a) The acquisition by any person of additional securities of the Issuer, or the disposition of securities of the Issuer;
- (b) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the Issuer or any of its subsidiaries;
- (c) A sale or transfer of a material amount of assets of the Issuer or any of its subsidiaries;
- (d) Any change in the present Board or management of the Issuer, including any plans or proposals to change the number or term of directors or to fill any existing vacancies on the Board;
- (e) Any material change in the present capitalization or dividend policy of the Issuer;
- (f) Any other material change in the Issuer's business or corporate structure;
- (g) Changes in the Issuer's charter, bylaws or instruments corresponding thereto or other actions that may impede the acquisition of control of the Issuer by any person;
- (h) Causing a class of securities of the Issuer to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association;
- (i) A class of equity securities of the Issuer becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Securities Exchange Act of 1934, as amended; or
- (j) Any action similar to any of those enumerated above.

**ITEM 5. Interest in Securities of the Issuer.**

(a) and (b) Pillar directly holds (i) 1,124,260 shares of Series D Preferred Stock and (ii) Series D Warrants representing 2,810,650 shares of Common Stock. Pillar II directly holds (i) 313,341 shares of Series E Preferred Stock and (ii) Series E Warrants representing 6,266,820 shares of Common Stock. Pillar GP, as the general partner of Pillar and Pillar II, has investment discretion over the shares of Series D Preferred Stock, Series E Preferred Stock, Series D Warrants and Series E Warrants directly held by Pillar and Pillar II. Pursuant to the Advisory Agreement, Pillar GP also has investment discretion over the 110,901 shares of Series E Preferred Stock and the Series E Warrants representing 2,218,020 shares of Common Stock that are held directly by Besancon (the Besancon Shares ).

Pursuant to Rule 13d-3 of the Securities Exchange Act of 1934 (the Exchange Act ), the number of shares of Common Stock beneficially owned by the Reporting Persons, and the applicable percentage, represent (prior to the application of the Conversion Cap and the Voting Cap) (A) shares of Common Stock into which Pillar's shares of Series D Preferred Stock are convertible assuming that only Pillar converted its shares of Series D Preferred Stock and that no other holder of Series D Preferred Stock converted any shares of Series D Preferred Stock; (B) shares of Common Stock issued upon

Pillar's exercise of its Series D Warrants, assuming that no other holder of Series D Warrants exercisable for shares of Common Stock exercised any such Series D Warrants; (C) shares of Common Stock into which Pillar II's shares of Series E Preferred Stock are convertible assuming that only Pillar II converted its shares of Series E Preferred Stock and that no other holder of Series E Preferred Stock converted any shares of Series E Preferred Stock; (D) shares of Common Stock issued upon Pillar II's exercise of its Series E Warrants, assuming that no other holder of Series E Warrants exercisable for shares of Common Stock exercised any such Series E Warrants; (E) shares of Common Stock into which Besancon's shares of Series E Preferred Stock are convertible assuming that only Besancon converted its shares of Series E Preferred Stock and that no other holder of Series E Preferred Stock converted any shares of Series E Preferred Stock; (F) shares of Common Stock issued upon Besancon's exercise of its Series E Warrants, assuming that no other holder of Series E Warrants exercisable for shares of Common Stock exercised any such Series E Warrants; and (G) shares of Common Stock issued upon Mr. El Zein's exercise of his vested options, assuming that no other holder of options exercisable for shares of Common Stock exercises any such options. As a result of the application of the Conversion Cap and the Voting Cap, each of Pillar, Pillar II and Pillar GP is reporting beneficial ownership 5,525,481 shares of Common Stock, which represents 19.99% of the 27,641,229 shares of Common Stock outstanding as of the Closing Date. Pillar, Pillar II and Pillar GP expressly disclaim beneficial ownership of the shares of Common Stock held directly by Mr. El Zein. Pillar and Pillar II expressly disclaim beneficial ownership of any of the Besancon Shares.

Mr. El Zein, as director and controlling stockholder of Pillar GP, may be deemed to have sole power to direct the voting and disposition of the shares of Common Stock directly held by Pillar and Pillar II and all shares that may be deemed to be beneficially owned by Pillar GP (which include the shares held directly by Pillar and Pillar II, and the Besancon Shares, with respect to which Pillar GP has investment discretion). Mr. El Zein also directly holds 586,101 shares of Common Stock and options to buy 76,418 shares of Common Stock, which are exercisable within sixty days of the Closing Date. As a result of the application of the Conversion Cap and the Voting Cap, Mr. El Zein is reporting beneficial ownership 5,525,481 shares of Common Stock, which represents 19.99% of the 27,641,229 shares of Common Stock outstanding as of the Closing Date. Mr. El Zein expressly disclaims beneficial ownership of the shares of Common Stock held directly by Pillar and Pillar II and indirectly by Pillar GP (including the Besancon Shares).

(c) Except as described in this Amendment No. 1 to Schedule 13D, none of the Reporting Persons has effected any transaction in the securities of the Issuer in the last 60 days.

(d) No persons other than the Reporting Persons and their investment clients have the right to participate in the receipt of dividends from, or the proceeds from the sale of, the shares of Common Stock covered hereby.

(e) Not Applicable.

**ITEM 6. Contracts, Arrangements, Understandings or Relationships With Respect to Securities of the Issuer.**

The information set forth in Item 4 hereof is hereby incorporated by reference into this Item 6. Except as referenced above or described in Item 4 hereof, there are no contracts, arrangements, understandings or relationships among the Reporting Persons or between such Reporting Persons and any other person with respect to any securities of the Company.

**ITEM 7. Materials to be Filed as Exhibits.**

- Exhibit 1: Joint Filing Agreement as required by Rule 13d-1(k)(1) under the Securities Exchange Act of 1934, as amended.
- Exhibit 2: Convertible Preferred Stock and Warrant Purchase Agreement, dated November 4, 2011, between the Company and Pillar (*incorporated by reference to the Issuer's Current Report on Form 8-K as filed with the Securities and Exchange Commission on November 10, 2011*)
- Exhibit 3: Registration Rights Agreement, between the Company and Pillar, dated November 4, 2011 (*incorporated by reference to the Issuer's Current Report on Form 8-K as filed with the Securities and Exchange Commission on November 10, 2011*)
- Exhibit 4: Certificate of Designations, Preferences and Rights of Series D Preferred Stock of the Company (*incorporated by reference to the Issuer's Current Report on Form 8-K as filed with the Securities and Exchange Commission on November 10, 2011*)
- Exhibit 5: Form of Warrant issued to Purchaser pursuant to Convertible Preferred Stock and Warrant Purchase Agreement, dated November 4, 2011, among the Company and the Pillar (*incorporated by reference to the Issuer's Current Report on Form 8-K as filed with the Securities and Exchange Commission on November 10, 2011*)
- Exhibit 6: Convertible Preferred Stock and Warrant Purchase Agreement, dated November 9, 2012, between the Company and Pillar II (*incorporated by reference to the Issuer's Current Report on Form 8-K as filed with the Securities and Exchange Commission on November 15, 2012*)
- Exhibit 7: Registration Rights Agreement, between the Company and Pillar II, dated November 9, 2012 (*incorporated by reference to the Issuer's Current Report on Form 8-K as filed with the Securities and Exchange Commission on November 15, 2012*)
- Exhibit 8: Certificate of Designations, Preferences and Rights of Series E Preferred Stock of the Company (*incorporated by reference to the Issuer's Current Report on Form 8-K as filed with the Securities and Exchange Commission on November 15, 2012*)
- Exhibit 9: Form of Warrant issued to Purchaser pursuant to Convertible Preferred Stock and Warrant Purchase Agreement, dated November 9, 2012, among the Company and the Pillar (*incorporated by reference to the Issuer's Current Report on Form 8-K as filed with the Securities and Exchange Commission on November 15, 2012*)
- Exhibit 10: Amendment No. 1 to Convertible Preferred Stock and Warrant Purchase Agreement, dated November 9, 2012, between the Company and Pillar (*incorporated by reference to the Issuer's Current Report on Form 8-K as filed with the Securities and Exchange Commission on November 15, 2012*)
- Exhibit 11: Amendment No. 1 to Common Stock Purchase Warrant, dated November 9, 2012, between the Company and Pillar (*incorporated by reference to the Issuer's Current Report on Form 8-K as filed with the Securities and Exchange Commission on November 15, 2012*)

**SIGNATURE**

After reasonable inquiry and to the best of my knowledge and belief, each of the undersigned hereby certifies that the information set forth in this statement is true, complete and correct.

EXECUTED as a sealed instrument this 16th day of November, 2012.

**PILLAR PHARMACEUTICALS I, L.P.**

By: Pillar Invest Corporation, its general partner

By: /s/ Youssef El Zein  
Name: Youssef El Zein  
Title: Director

**PILLAR PHARMACEUTICALS II, L.P.**

By: Pillar Invest Corporation, its general partner

By: /s/ Youssef El Zein  
Name: Youssef El Zein  
Title: Director

**PILLAR INVEST CORPORATION**

By: /s/ Youssef El Zein  
Name: Youssef El Zein  
Title: Director

/s/ Youssef El Zein  
Youssef El Zein

## EXHIBIT INDEX

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