

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) July 27, 2020

NAVIDEA BIOPHARMACEUTICALS, INC.  
(Exact name of registrant as specified in its charter)

<u>Delaware</u>	<u>001-35076</u>	<u>31-1080091</u>
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

<u>4995 Bradenton Avenue, Suite 240, Dublin, Ohio</u>	<u>43017</u>
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code (614) 793-7500

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

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

- ☐ 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))

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

Emerging growth company ☐

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

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

<u>Title of Each Class</u>	<u>Trading Symbol(s)</u>	<u>Name of Each Exchange on Which Registered</u>
Common Stock, par value \$0.001 per share	NAVB	NYSE American

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

On July 27, 2020, Navidea Biopharmaceuticals, Inc. (the “*Company*”) entered into a new employment agreement (the “*Employment Agreement*”) with Jed A. Latkin, the Company’s current Chief Executive Officer, Chief Financial Officer and Chief Operating Officer.

The new Employment Agreement includes substantially similar terms and conditions as Mr. Latkin’s prior employment agreement, which is replaced and superseded by the new agreement.

The new Employment Agreement has an ongoing term (the “*Term*”) that ends upon the termination of Mr. Latkin’s employment. During the Term, Mr. Latkin will receive an annual base salary of \$490,000, payable in regular installments in accordance with the Company’s normal payroll practices. Mr. Latkin will also be entitled to an annual bonus of up to 75% of his annual base salary, based on achievement of annual target performance goals established by the Compensation, Nominating and Governance Committee. In the event that the market capitalization of the Company at the end of a calendar year during the Term is at least \$250,000,000, then the Compensation, Nominating and Governance Committee of the Board may at its sole discretion increase the annual bonus amount.

The Employment Agreement also provides that on the date that the Company files its Form 10-Q for the quarter ended June 30, 2020, the Board will grant Mr. Latkin (i) an option to purchase 100,000 shares of the Company’s common stock (the “*Stock Option*”), and (ii) a restricted stock award covering 50,000 shares of the Company’s common stock (the “*Restricted Shares*”), in each case on and subject to the terms of the Company’s 2014 Stock Incentive Plan and the Company’s standard form of award agreement to be executed by Mr. Latkin. The Stock Option will have an exercise price per share equal to the closing price of the underlying option shares on the date of grant. The Stock Option and the Restricted Shares will vest in equal annual installments on each of July 1, 2021, 2022, and 2023 subject to Mr. Latkin’s continued employment.

If the Company terminates Mr. Latkin’s employment without Cause or if he terminates his employment for Good Reason (each as defined in the Employment Agreement), in either case other than in connection with a change in control, Mr. Latkin shall be paid as severance (i) his continued base salary, as in effect at the time of termination, payable through the Severance Period (as defined in the Employment Agreement as 12 months, plus an additional 2 months for every fully completed year of service), and (ii) his unpaid annual bonus, if any, earned for the year he was terminated, prorated to the date of termination. In addition, following termination all unvested stock options and restricted shares held by Mr. Latkin will vest immediately, and any vested stock options will remain exercisable for the Severance Period (as defined in the Employment Agreement).

If the Company terminates Mr. Latkin’s employment without Cause or if he terminates his employment for Good Reason, in either case within 6 months after a change in control, Mr. Latkin shall be paid as severance (i) his continued base salary, as in effect at the time of termination, payable through the Severance Period, (ii) a bonus equal to (x) 1 year of base salary, plus an additional 2 months of base salary for every fully completed year of service, and (y) 1 year of his target bonus opportunity, plus an additional 2 months of prorated target bonus for every fully completed year of service, and (iii) his unpaid annual bonus, if any, earned for the year he was terminated, prorated to the date of termination. In addition, following termination all unvested stock options and restricted shares held by Mr. Latkin will vest immediately, and any vested stock options will remain exercisable for the Severance Period (as defined in the Employment Agreement).

The Employment Agreement also contains customary non-competition and non-solicitation covenants that bind Mr. Latkin during the Term and for a period of one year thereafter. He must also sign a release of claims in favor of the Company to receive the severance benefits described above.

The preceding description of the Employment Agreement is a summary of its material terms, does not purport to be complete, and is qualified in its entirety by reference to the Employment Agreement, a copy of which is being filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

**Item 9.01      Financial Statements and Exhibits.**

10.1      [Employment Agreement, effective July 27, 2020, by and between Navidea Biopharmaceuticals, Inc. and Jed A. Latkin.](#)

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## SIGNATURES

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

Date: July 31, 2020

Navidea Biopharmaceuticals, Inc.

By: /s/ Jed A. Latkin

Jed A. Latkin, Chief Executive Officer, Chief  
Operating Officer, and Chief Financial Officer

## EMPLOYMENT AGREEMENT

This Employment Agreement (this “Agreement”) is made and entered into effective as of July 27, 2020 (the “Effective Date”) by and between **Navidea Biopharmaceuticals, Inc.**, a Delaware corporation (the “Company” or “Navidea”) and **Jed A Latkin** (the “Executive”). The Company and Executive are hereinafter sometimes collectively referred to as the “Parties.”

WHEREAS, the Company has offered to continue to employ Executive as its CEO, COO and CFO, and the Executive desires to accept such continued employment; and

WHEREAS, the Parties wish to establish terms, covenants, and conditions for the Executive’s continued employment with the Company through this Employment Agreement (this “Agreement”).

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, the Parties agree as follows:

1. **Duties.** From and after the Effective Date, and based upon the terms and conditions set forth herein, the Company agrees to employ the Executive and the Executive agrees to be employed by the Company, as the Company’s CEO, COO and CFO and in such additional executive level position or positions as shall be assigned to him by the Company’s Board of Directors (the “Board”). While serving in such executive level position or positions, the Executive shall report to, be responsible to, and shall take direction from the Board. The Executive shall, if requested, also serve as a member of Board or as an officer or director of any affiliate of the Company for no additional compensation. During the Term (as defined in Section 2 below), the Executive agrees to devote substantially all of his working time to the position he holds with the Company and to faithfully, industriously, and to the best of his ability, experience and talent, perform the duties that are assigned to him. The Executive shall also observe and abide by the reasonable corporate policies and decisions of the Company in all business matters.

The Executive represents and warrants to the Company that Exhibit A attached hereto sets forth a true and complete list of (a) all offices, directorships and other positions held by the Executive in corporations and firms other than the Company and its subsidiaries, and (b) any investment or ownership interest in any corporation or firm other than the Company beneficially owned by the Executive (excluding investments in life insurance policies, bank deposits, publicly traded securities that are less than five percent (5%) of their class and real estate). The Executive will promptly notify the Board of any additional positions undertaken or investments made by the Executive during the Term if they are of a type which, if they had existed on the date hereof, should have been listed on Exhibit A hereto. As long as the Executive’s other positions or investments in other firms do not create a conflict of interest, violate the Executive’s obligations under Section 6 below or cause the Executive to neglect his duties hereunder, such activities and positions shall not be deemed to be a breach of this Agreement.

2. **Term of this Agreement.** Subject to Section 4 hereof, the Company shall continue to employ Executive, and Executive accepts continued employment with the Company, upon the terms and subject to the conditions set forth in this Agreement, for the period beginning on the Effective Date and ending on the date of termination of the Executive’s employment as determined in paragraph (j) of Section 4 of this Agreement (the “Term”).
  3. **Compensation.** During the Term, the Company shall pay, and the Executive agrees to accept as full consideration for the services to be rendered by the Executive hereunder, compensation consisting of the following:
    - A. **Salary.** The Company shall pay the Executive a salary of \$490,000 per year (the “Base Salary”) payable in regular installments in accordance with the Company’s normal payroll practices, which the Parties agree shall fully satisfy any merit adjustment otherwise due to the Executive for the 2020 calendar year. During the Term, the Base Salary shall be reviewed by the Board at such time as the salaries of other senior executives of the Company are reviewed generally. The Base Salary shall not be reduced other than in connection with an across-the-board salary reduction which applies in a comparable manner to other senior executives of the Company. If so increased or reduced, then such adjusted salary will thereafter be the Base Salary for all purposes under this Agreement.
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- B. **Bonus.** For each complete calendar year of the Term, the Executive shall have the opportunity to earn an annual bonus (the “Annual Bonus”) of up to 75% of Base Salary (the “Target Bonus Amount”), as in effect at the beginning of the applicable calendar year during the Term, based on achievement of annual target performance goals established by the Committee; provided, however, in the event the market capitalization of the Company at the end of any calendar year during the Term is at least \$250,000,000, then the Committee may **at its sole discretion** increase the Annual Bonus opportunity. The Committee will, on an annual basis, review the performance of the Company and of the Executive in relation to the target performance goals and will pay such Annual Bonus, as it deems appropriate, in its discretion, to the Executive based upon such review. Any bonus earned in any calendar year will be paid on a date designated by the Board in its sole discretion in the year following the year such bonus is earned. In order to be eligible to receive an Annual Bonus, the Executive must be employed by the Company on the last day of the applicable calendar year with respect to which the Annual Bonus is to be paid.
- C. **Benefits.** During the Term, the Executive will receive such employee benefits as are generally available to all executives and officers of the Company.
- D. **Vacation.** The Executive shall be entitled to twenty-five (25) days of vacation during each calendar year (prorated for partial years) during the Term, in accordance with the Company's vacation policies, as in effect from time to time.
- E. **Expenses.** The Company shall reimburse the Executive for all reasonable out-of-pocket expenses incurred by him in the performance of his duties hereunder, including expenses for travel, entertainment and similar items, promptly after the presentation by the Executive, from time-to-time, of an itemized account of such expenses.
- F. **Clawback Policy.** The Executive acknowledges that, notwithstanding any provision of this Agreement to the contrary, any incentive compensation or performance-based compensation paid or payable to the Executive hereunder shall be subject to repayment or recoupment obligations arising under applicable law or the Company’s clawback policy as in effect from time to time.
- G. **Stock Option.** Effective on the date that the Company files its Form 10-Q for the quarter ending June 30, 2020 (the “Date of Grant”), the Executive shall be granted (i) an option to purchase 100,000 shares of the Company’s common stock (the “Stock Option”), and (ii) a restricted stock award covering 50,000 shares of the Company’s common stock (the “Restricted Shares”), in each case on and subject to the terms of the Navidea Biopharmaceuticals, Inc. 2014 Stock Incentive Plan (the “Equity Plan”) and the Company’s standard form of award agreement to be executed by the Executive (it being understood that such grants shall be conditioned upon the execution of such award agreement). The Stock Option shall have an exercise price per share equal to the closing price of the underlying option shares on the Date of Grant. Each of the Stock Option and the Restricted Shares shall vest in equal annual installments on the first three anniversaries of July 1, 2020, subject to the Executive’s continued employment.

#### 4. Termination.

- A. **For Cause.** The Company may terminate the employment of the Executive “for cause.” Termination “for cause” shall be defined as a termination by the Company of the employment of the Executive occasioned by:
- i. the failure by the Executive to cure a willful breach of a material duty imposed on the Executive under this Agreement or any other written agreement between Executive and the Company within 15 days after written notice thereof by the Company;
  - ii. the continuation by the Executive after written notice by the Company of a willful and continued neglect of a duty imposed on the Executive under this Agreement;
  - iii. acts by Executive of fraud, embezzlement, theft or other material dishonesty directed against Navidea;
  - iv. the Executive is formally charged with a felony (other than a traffic offense), or a crime involving moral turpitude, that in the reasonable good faith judgment of the Board, results in material damage to the Company or its reputation, or would materially interfere with the performance of Executive’s obligations under this Agreement;
  - v. any condition which either results from the Executive’s substantial dependence, as reasonably determined in good faith by the Board, on alcohol, or on any narcotic drug or other controlled or illegal substance; or
  - vi. neglect or dereliction of duties by the Executive or failure to rectify specific performance deficiencies identified by the Company in writing in a performance review within sixty (60) days.

In the event of termination by the Company “for cause,” all salary, benefits and other payments shall cease at the time of termination, and the Company shall have no further obligations to the Executive.

- B. **Resignation.** If the Executive resigns for any reason (other than Good Reason (as defined in paragraph F of this Section 4 below)), all salary, benefits and other payments (except as otherwise provided in paragraph E of this Section 4) shall cease at the time such resignation becomes effective. At the time of any such resignation, the Company shall pay the Executive the value of any accrued but unused vacation time, and the amount of all accrued but previously unpaid Base Salary through the date of such termination. The Company shall promptly reimburse the Executive for the amount of any expenses incurred prior to such termination by the Executive as required under paragraph E of Section 3 above. The Company shall also pay to the Executive the amount of the Annual Bonus, if any, that has been earned by the Executive for a completed fiscal year or other measuring period preceding the date of termination, but has not yet been paid to the Executive (to be paid at a time the Company pays bonuses to other senior executives of the Company for that completed fiscal year or other measuring period).
- C. **Disability, Death.** The Company may terminate the employment of the Executive if the Executive has been unable to perform his duties hereunder or a similar job for a continuous period of six (6) months due to a physical or mental condition that, in the opinion of a licensed physician, will be of indefinite duration or is without a reasonable probability of recovery for a period of at least six (6) months. The Executive agrees to submit to an examination by a licensed physician of his choice in order to obtain such opinion, at the request of the Company, made after the Executive has been absent from his place of employment for at least six (6) months. The Company shall pay for any requested examination. However, this provision does not abrogate either the Company’s or the Executive’s rights and obligations pursuant to the Family and Medical Leave Act of 1993, and a termination of employment under this paragraph C shall not be deemed to be a termination “for cause.”

If during the Term, the Executive dies or the Executive's employment is terminated because of the Executive's disability, all salary, benefits and other payments shall cease at the time of death or termination due to disability, provided, however, that the Company shall pay such other amounts or provide such other benefits required to be paid or provided to the Executive or the Executive's estate under any plan, program, policy, practice, contract, or arrangement in which the Executive or the Executive's estate is eligible to receive such payments or benefits from the Company, for twelve (12) months after such death or termination on the same terms and conditions (including cost) as were applicable before such death or termination. In addition, for the first six (6) months of any disability, as defined under Section 409A of the Internal Revenue Code of 1986, as amended, and any guidance thereunder, that results in the Executive being unable to perform any gainful activity, the Company shall pay to the Executive the difference, if any, between any cash benefits received by the Executive from a Company-sponsored disability insurance policy and the Executive's salary hereunder in accordance with paragraph A of Section 3 above. At the time of any such termination, the Company shall pay the Executive or Executive's estate, the value of any accrued but unused vacation time, and the amount of all accrued but previously unpaid Base Salary through the date of such termination. The Company shall promptly reimburse the Executive or Executive's estate for the amount of any expenses incurred prior to such termination by the Executive as required under paragraph E of Section 3 above. The Company shall also pay to the Executive or Executive's estate the amount of the Annual Bonus, if any, that has been earned by the Executive for a completed fiscal year or other measuring period preceding the date of termination, but has not yet been paid to the Executive (to be paid at a time the Company pays bonuses to other senior executives of the Company for that completed fiscal year or other measuring period).

Notwithstanding the foregoing, if the Company reasonably determines that any of the benefits described in this paragraph C may not be exempt from federal income tax, then for a period of six (6) months after the date of the Executive's termination, the Executive shall pay to the Company an amount equal to the stated taxable cost of such coverages. After the expiration of the six-month period, the Executive or Executive's estate shall receive from the Company a reimbursement of the amounts paid by the Executive.

- D. **Termination Without Cause or by Executive for Good Reason.** A termination "without cause" is a termination of the employment of the Executive by the Company that is not "for cause" and not occasioned by the resignation, death or disability of the Executive. If the Executive's employment is terminated by the Company without cause or by the Executive for Good Reason, the Company shall, at the time of such termination, pay to the Executive the severance payment provided in paragraph E of this Section 4 together with the value of any accrued but unused vacation time and the amount of all accrued but previously unpaid Base Salary through the date of such termination. The Company shall promptly reimburse the Executive for the amount of any expenses incurred prior to such termination by the Executive as required under paragraph E of Section 3. The Company shall also pay to the Executive the amount of the Annual Bonus, if any, that has been earned by the Executive for a completed fiscal year or other measuring period preceding the date of termination, but has not yet been paid to the Executive (to be paid at a time the Company pays bonuses to other senior executives of the Company for that completed fiscal year or other measuring period).

If the Company terminates the employment of the Executive because it has ceased to do business or substantially completed the liquidation of its assets or because it has relocated to another city and the Executive has decided not to relocate also, such termination of employment shall be deemed to be without cause.

- E. **Severance.** If the employment of the Executive terminates under paragraph D of this Section 4, then, subject to Executive's execution and non-revocation of a general release in favor of the Company, its affiliates and their current and former officers, directors and employees, in form reasonably satisfactory to the Company (the "Release"), the Executive shall be paid, as severance, (i) continued Base Salary, as in effect at the time of such termination, during the Severance Period, payable in regular installments in accordance with the Company's normal payroll practices as they may exist from time to time, with the installments that otherwise would be paid prior to the first payroll date following the date the Release becomes effective and irrevocable in accordance with its terms being paid (without interest) on such payroll date in a lump sum and the remaining installments being paid as otherwise scheduled assuming payments had begun immediately after the date of termination; and (ii) the unpaid Annual Bonus, if any earned for the year in which the termination occurs, prorated to the date of the Executive's termination of employment, to be paid at a time the Company pays bonuses to other senior executives of the Company. In addition, following termination all unvested stock options and restricted shares held by the Executive shall vest immediately, and any vested stock options shall remain exercisable for the Severance Period (but not beyond the original 10-year term). For purposes of this Agreement, "Severance Period" means the period of time commencing immediately after Executive's separation of service from the Company through the date that is twelve (12) months following such separation date, plus an additional two (2) months for every fully completed year of Executive's service to the Company.

F. **Change of Control Severance.** In addition to the rights of the Executive under the Company's employee benefit plans (paragraph C of Section 3 above) but in lieu of any severance payment under paragraph E of this Section 4 above, if there is a Change in Control of the Company (as defined below) during the Term and within six (6) months thereafter the employment of the Executive is concurrently or subsequently terminated (i) by the Company without cause, or (ii) by the resignation of the Executive because he has reasonably determined in good faith that his titles, authorities, responsibilities as CEO, salary (except as permitted under paragraph A of Section 3 above), bonus opportunities or benefits have been materially diminished, that a material adverse change in his working conditions as CEO has occurred, or the Company has breached this Agreement (clause (ii) of the first paragraph of this Section 4(F) shall mean "Good Reason"); provided that the reduction or change of the Executive's title, authorities, responsibilities or working conditions related to removal of the Executive as COO, CFO or both shall not constitute Good Reason, the Company shall pay the Executive, as a severance payment, at the time of such termination, and subject to the Executive signing a Release, (A) continued Base Salary, as in effect at the time of such termination, during the Severance Period, payable in regular installments in accordance with the Company's normal payroll practices as they may exist from time to time, with the installments that otherwise would be paid prior to the first payroll date following the date the Release becomes effective and irrevocable in accordance with its terms being paid (without interest) on such payroll date in a lump sum and the remaining installments being paid as otherwise scheduled assuming payments had begun immediately after the date of termination, (B) a bonus equal to (x) one (1) year of Base Salary (as in effect on the date of termination) *plus* an additional two months of Base Salary for every fully completed year of Executive's service to the Company, and (y) one (1) year of the Target Bonus Amount in effect on the date of termination *plus* an additional two months of prorated Target Bonus Amount for every fully completed year of Executive's service to the Company, in each case payable in equal bi-monthly installments during the Severance Period, with the installments that otherwise would be paid prior to the first payroll date following the date the Release becomes effective and irrevocable in accordance with its terms being paid (without interest) on such payroll date in a lump sum and the remaining installments being paid as otherwise scheduled assuming payments had begun immediately after the date of termination, (C) in addition to (B), the unpaid Annual Bonus, if any, earned for the year in which the termination occurs, prorated to the date of termination of Executive's employment, to be paid at the time the Company pays bonuses to other senior executives of the Company and (D) all unvested stock options and restricted shares held by the Executive shall vest immediately, and any vested stock options shall remain exercisable for the Severance Period (but not beyond the original 10-year term). The Company shall promptly reimburse the Executive for the amount of any expenses incurred prior to such termination of the Executive as required under paragraph E of Section 3 above. The Company shall also pay to the Executive the amount of the Annual Bonus, if any, that has been earned by the Executive for a completed fiscal year or other measuring period preceding the date of termination, but has not yet been paid to the Executive (to be paid at a time the Company pays bonuses to other senior executives of the Company for that completed fiscal year or other measuring period). Notwithstanding the foregoing, before the Executive may resign pursuant to clause (iii) of this paragraph, the Executive shall deliver to the Company a written notice of the Executive's intent to terminate his employment thereunder, and the Company shall have been given a reasonable opportunity to cure any such act, omission or condition within thirty (30) days after the Company's receipt of such notice.



For the purpose of this Agreement, a Change in Control of the Company has occurred when: (a) any person (defined for the purposes of this paragraph F to mean any person within the meaning of Section 13(d) of the Exchange Act), other than Navidea, an employee benefit plan created by its Board of Directors for the benefit of its employees, or a participant in a transaction approved by its Board for the principal purpose of raising additional capital, either directly or indirectly, or an Affiliate of such participant, acquires beneficial ownership (determined under Rule 13d-3 of the regulations promulgated under Section 13(d) of the Exchange Act) of securities issued by Navidea having thirty percent (30%) or more of the voting power of all the voting securities issued by Navidea in the election of directors at the next meeting of the holders of voting securities to be held for such purpose; (b) a majority of the directors elected at any meeting of the holders of voting securities of Navidea are persons who were not nominated for such election by the Board or a duly constituted committee of the Board having authority in such matters; (c) the stockholders of Navidea approve a merger or consolidation of Navidea with another person other than a merger or consolidation in which the holders of Navidea's voting securities issued and outstanding immediately before such merger or consolidation continue to hold voting securities in the surviving or resulting corporation (in the same relative proportions to each other as existed before such event) comprising eighty percent (80%) or more of the voting power for all purposes of the surviving or resulting corporation; or (d) the stockholders of Navidea approve a transfer of substantially all of the assets of Navidea to another person other than: (i) a transfer to a transferee, eighty percent (80%) or more of the voting power of which is owned or controlled by Navidea or by the holders of Navidea's voting securities issued and outstanding immediately before such transfer in the same relative proportions to each other as existed before such event, or (ii) a transfer following which Navidea continues the operation of one or more lines of business that were operated by Navidea prior to the transfer, and a class of Navidea's common stock remains registered under Section 12 of the Exchange Act.

- G. **Benefit and Stock Plans.** Except as specifically set forth herein, in the event that a benefit plan, equity plan or award agreement which covers the Executive has specific provisions concerning termination of employment, or the death or disability of an employee (*e.g.*, life insurance or disability insurance), then such benefit plan, equity plan or award agreement shall control the disposition of the benefits or awards thereunder.
- H. **Resignation of All Other Positions.** Upon termination of the Executive's employment hereunder for any reason, the Executive shall be deemed to have resigned from all positions that the Executive holds as an officer or member of the Board (and any committee thereof) of the Company or any of its affiliates.
- I. **Cooperation.** The Parties agree that certain matters in which the Executive will be involved during the Term may necessitate the Executive's cooperation following termination of his employment. Accordingly, following the termination of the Executive's employment for any reason, to the extent reasonably requested by the Board, the Executive shall cooperate with the Company in connection with matters arising out of the Executive's service to the Company; provided that, the Company shall make reasonable efforts to minimize disruption of the Executive's other activities. The Company shall reimburse the Executive for reasonable expenses incurred in connection with such cooperation and, to the extent that the Executive is required to spend substantial time on such matters, the Company shall compensate the Executive at an hourly rate based on the Executive's Base Salary on the date of termination.

- J. **Date of Termination.** The date of termination of the Executive's employment with the Company shall be: (i) if the Executive's employment terminates on account of Executive's death, the date of Executive's death; (ii) if the Executive's employment is terminated by the Company on account of Executive's disability, the date the notice of termination is given to the Executive in accordance with Section 17 of this Agreement; (iii) if the Company terminates the Executive's employment with or without Cause (and other than for death or disability), the date the notice of termination is given to the Executive in accordance with Section 17 of this Agreement; (iv) if the Executive terminates his employment for Good Reason, the date the notice of termination is given to the Company in accordance with Section 17 of this Agreement or such later date specified therein within 90 calendar days after such notice is provided; and if the Executive terminates his employment without Good Reason, the 90th calendar day following the date on which the notice of termination is given to the Company in accordance with Section 17 of this Agreement, provided that the Company may elect to waive all or any part of the 90-day notice period, and, if the Company so elects, the Company will continue to pay the Executive his Base Salary for portion of the notice period so waived.
5. **Proprietary Information Agreement.** The Executive has executed a Proprietary Information Agreement as a condition of employment with the Company. The Proprietary Information Agreement shall not be limited by this Agreement in any manner, and the Executive shall act in accordance with the provisions of the Proprietary Information Agreement at all times during the Term. Nothing contained in this Agreement or the Proprietary Information Agreement limits the Executive's ability to file a charge or complaint with any federal, state or local governmental agency or commission (a "Government Agency"). In addition, nothing in this Agreement or the Proprietary Information Agreement or any other Company agreement, policy, practice, procedure, directive or instruction shall prohibit the Executive from reporting possible violations of federal, state or local laws or regulations to any Government Agency or making other disclosures that are protected under the whistleblower provisions of federal, state or local laws or regulations. The Executive does not need prior authorization of any kind to make any such reports or disclosures and the Executive is not required to notify the Company that the Executive has made such reports or disclosures. Nothing in this this Agreement or the Proprietary Information Agreement limits any right the Executive may have to receive a whistleblower award or bounty for information provided to the Securities and Exchange Commission or other Government Agency.
6. **Non-Competition.** Executive agrees that for so long as he is employed by the Company under this Agreement and for one (1) year thereafter, the Executive will not:
- A. enter into the employ of or render any services to any person, firm, or corporation, which is engaged, in any part, in a Competitive Business (as defined below);
  - B. engage in any directly Competitive Business for his own account;
  - C. become associated with or interested in through retention or by employment any Competitive Business as an individual, partner, shareholder, creditor, director, officer, principal, agent, employee, trustee, consultant, advisor, or in any other relationship or capacity; or
  - D. solicit, interfere with, or endeavor to entice away from the Company, any of its customers, strategic partners, or sources of supply.
- Nothing in this Agreement shall preclude the Executive from taking employment in the banking or related financial services industries nor from investing his personal assets in the securities or any Competitive Business if such securities are traded on a national stock exchange or in the over-the-counter market and if such investment does not result in his beneficially owning, at any time, more than one percent (1%) of the publicly-traded equity securities of such Competitive Business. "Competitive Business" for purposes of this Agreement shall mean any business or enterprise:

- a. which is engaged in the development, commercialization or distribution of systems for use in detection, diagnosis or treatment of cancer, inflammatory or immune-related diseases, including without limitation the development, commercialization or distribution of radiopharmaceuticals for such purposes, or
- b. which reasonably could be understood to be competitive in the relevant market with products and/or systems described in clause~~s~~ above, or
- c. in which the Company engages in during the Term pursuant to a determination of the Board and from which the Company derives a material amount of revenue or in which the Company has made a material capital investment.

The covenant set forth in this Section 6 shall terminate immediately upon the substantial completion of the liquidation of assets of the Company or the termination of the employment of the Executive by the Company without cause.

- 7. **Arbitration.** Any dispute or controversy arising under or in connection with this Agreement shall be settled exclusively by arbitration in Newark, New Jersey in accordance with the non-union employment arbitration rules of the American Arbitration Association (“AAA”) then in effect. If specific non-union employment dispute rules are not in effect, then AAA commercial arbitration rules shall govern the dispute. If the amount claimed exceeds \$500,000, the arbitration shall be before a panel of three arbitrators. Judgment may be entered on the arbitrator’s award in any court having jurisdiction. The Company shall indemnify the Executive against and hold him harmless from any attorney’s fees, court costs and other expenses incurred by the Executive in connection with the preparation, commencement, prosecution, defense, or enforcement of any arbitration, award, confirmation or judgment in order to assert or defend any right or obtain any payment under paragraphs C, D, E or F of Section 4 above or under this sentence; without regard to the success of the Executive or his attorney in any such arbitration or proceeding.
- 8. **Attorneys’ Fees and Expenses.** Except as otherwise provided in Section 7, in the event that any action, suit, or other legal or equitable proceeding is brought by either party to enforce the provisions of this Agreement, or to obtain money damages for the breach thereof, then the party which substantially prevails in such action (whether by judgment or settlement) shall be entitled to recover from the other party all reasonable expenses of such litigation (including any appeals), including, but not limited to, reasonable attorneys’ fees and disbursements.
- 9. **Governing Law.** The Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its conflicts of laws principles.
- 10. **Jurisdiction; Service of Process.** Except as otherwise provided in Section 7, any action or proceeding arising out of or relating to this Agreement shall be brought exclusively in the state or federal courts located in New York, New York and each of the Parties irrevocably submits to the jurisdiction of each such court in any such action or proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the action or proceeding shall be heard and determined only in any such court and agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. The Parties agree that either or both of them may file a copy of this Section with any court as written evidence of the knowing, voluntary and bargained agreement between the Parties irrevocably to waive any objections to venue or to convenience of forum. Process in any action or proceeding referred to in the first sentence of this section may be served on any party anywhere in the world
- 11. **Waiver of Jury Trial.** THE PARTIES HEREBY UNCONDITIONALLY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING DIRECTLY OR INDIRECTLY OUT OF, RELATED TO, OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OR BREACH OF THIS AGREEMENT, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN THEM. The scope of this waiver is intended to be all encompassing of any and all disputes that may be filed in any court or other tribunal (including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims). THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS, OR MODIFICATIONS TO THIS AGREEMENT AND RELATED DOCUMENTS. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

- 12. Validity.** The invalidity or unenforceability of any provision or provisions of this Agreement shall not affect the validity or enforceability of any other provision of the Agreement, which shall remain in full force and effect.
- 13. Compliance with Section 409A of the Internal Revenue Code.** It is intended that this Agreement comply with Section 409A of the Internal Revenue Code of 1986, as amended, and any guidance thereunder ("Section 409A"). If, when the Executive's employment with the Company terminates, the Executive is a "specified employee" as defined in Section 409A(a)(1)(B)(i), and if any payments under this Agreement, including payments under Section 4, will result in additional tax or interest to the Executive under Section 409A(a)(1)(B) ("Section 409A Penalties"), then despite any provision of this Agreement to the contrary, the Executive will not be entitled to payments until the earliest of (a) the date that is at least six months after termination of the Executive's employment for reasons other than the Executive's death, (b) the date of the Executive's death, or (c) any earlier date that does not result in Section 409A Penalties to the Executive. As soon as practicable after the end of the period during which payments are delayed under this provision, the entire amount of the delayed payments shall be paid to the Executive in a lump sum. Additionally, if any provision of this Agreement would subject the Executive to Section 409A Penalties, the Company will apply such provision in a manner consistent with Section 409A during any period in which an arrangement is permitted to comply operationally with Section 409A and before a formal amendment to this Agreement is required. For purposes of this Agreement, any reference to the Executive's termination of employment will mean that the Executive has incurred a "separation from service" under Section 409A. No payments to be made under this Agreement may be accelerated or deferred except as specifically permitted under Section 409A. Any payments that qualify for the "short-term deferral" exception or another exception under Section 409A of the Code shall be paid under the applicable exception. Each payment of compensation under this Agreement shall be treated as a separate payment of compensation for purposes of Section 409A. To the extent that any reimbursements provided under this Agreement constitute deferred compensation subject to Section 409A, such amounts shall be paid or reimbursed to the Executive promptly, but in no event later than December 31 of the year following the year in which the expense is incurred. The amount of any such payments eligible for reimbursement in one year shall not affect the payments or expenses that are eligible for payment or reimbursement in any other taxable year, and the Executive's right to such payments or reimbursement shall not be subject to liquidation or exchange for any other benefit. Notwithstanding any other provision of this Agreement to the contrary, but only to the extent necessary to comply with Section 409A, if the period in which the Release required by Section 4(F) or (G) of this Agreement must be provided and become effective and irrevocable in accordance with its terms begins in one calendar year and ends in a second calendar year, payment of any nonqualified deferred compensation shall be made or commence on the later of (i) the first payroll date of the second calendar year, or (ii) the first payroll date after the date that the Release becomes effective and irrevocable in accordance with its terms
- 14. Entire Agreement.** This Agreement, together with the Proprietary Information Agreement referenced above, constitutes the entire understanding between the Parties with respect to the subject matter hereof, and supersedes all negotiations, prior discussions, and preliminary agreements to this Agreement, including the employment agreement between the Executive and the Company dated as of October 1, 2018, which agreement the parties acknowledge is hereby superseded, replaced in its entirety and considered null and void as of the Effective Date. This Agreement may not be amended except in writing executed by the Parties.

- 15. Effect on Successors of Interest.** This Agreement shall inure to the benefit of and be binding upon heirs, administrators, executors, successors and assigns of each of the Parties. Notwithstanding the above, the Executive recognizes and agrees that his obligation under this Agreement may not be assigned without the consent of the Company. The Company, however, may assign its rights and obligations under this Agreement.
- 16. Counterpart Signatures.** This Agreement may be signed in counterparts, each of which when so executed and delivered shall be an original, but all such counterparts together shall constitute one and the same instrument. A fully signed copy, pdf or facsimile copy of this Agreement shall be deemed an original.
- 17. Notice.** Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, sent by electronic mail, or sent by reputable overnight carrier, in each case with proof of receipt, to the recipient. Notices to the Executive shall be sent to the address of the Executive most recently provided to the Company. Notices to the Company should be sent to Navidea Biopharmaceuticals, Inc., 4995 Bradenton Avenue, Suite 240, Dublin, Ohio 43017-3552, Attn: [●] (email: [●]). Any notice under this Agreement will be deemed to have been given when so delivered, sent or mailed.

[signature page follows]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date first written above.

NAVIDEA BIOPHARMACEUTICALS, INC.

EXECUTIVE:

By: /s/ Michael Rice

/s/ Jed A. Latkin

Name: Michael Rice  
Title: Chairman of the Board

Jed A Latkin

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**Exhibit A**