

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, DC 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): **April 26, 2016**

**INNOVIVA, INC.**

(Exact Name of Registrant as Specified in its Charter)

**Delaware**

(State or Other Jurisdiction of  
Incorporation)

**000-30319**

(Commission File Number)

**94-3265960**

(I.R.S. Employer Identification  
Number)

**951 Gateway Boulevard  
South San Francisco, California 94080  
(650) 238-9600**

(Addresses, including zip code, and telephone numbers, including area code, of principal  
executive offices)

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

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 2.02. Results of Operations and Financial Condition**

On April 28, 2016, Innoviva, Inc. (the "Company") issued a press release and is holding a conference call regarding its results of operations and financial condition for the quarter ended March 31, 2016. A copy of the press release, which includes information regarding the Company's use of non-GAAP financial measures, is furnished as Exhibit 99.1 to this Current Report.

The information in Item 2.02 of this Current Report on Form 8-K, including Exhibit 99.1, is being furnished and shall not be deemed "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as expressly set forth by specific reference in such a filing.

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

*Retention of Senior Vice President and Chief Commercial Officer*

On April 27, 2016, George Abercrombie notified the Company of his decision to remain as the Senior Vice President and Chief Commercial Officer. Mr. Abercrombie had previously informed the Company of his decision to retire from his position as reported on April 20, 2016.

**Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

*Filing of Restated Certificate of Incorporation to Integrate Amendments*

On April 26, 2016, the Company’s stockholders approved an amendment to the second paragraph of Article VI of the Company’s then-effective Restated Certificate of Incorporation consistent with Section 141(k) of the Delaware General Corporation Law (the “DGCL”), to remove the words “for cause” so that any of the Company’s directors may be removed, with or without cause. The stockholders of the Company also approved an additional amendment to the then-effective Restated Certificate of Incorporation to, among other things, remove provisions that are out-of-date, obsolete or inoperative. As indicated in the Company’s definitive proxy statement on Schedule 14A filed with the United States Securities and Exchange Commission on March 25, 2016 (the “Proxy Statement”), the Company filed a restated certificate of incorporation (the “Restated Charter”) with the Secretary of State of the State of Delaware pursuant to Section 245 of the DGCL to integrate into a single instrument all of the amendments to the prior Restated Certificate of Incorporation, including the Removal Amendment and Ancillary Amendment (each defined below) approved by the Company’s stockholders as set forth below in Item 5.07 of this Current Report on Form 8-K.

The foregoing summary description of certain provisions of the Restated Charter is qualified in its entirety by the full text of the Restated Charter, a copy of which is filed as Exhibit 99.2 to this Current Report on Form 8-K and is incorporated herein by reference.

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

At the 2016 annual meeting of stockholders (the “Annual Meeting”) of the Company held on April 26, 2016, the following proposals were submitted to the stockholders of the Company:

- Proposal 1: The election of five directors to serve until the the next annual meeting of stockholders.
- Proposal 2: Advisory vote to approve named executive officer compensation.
- Proposal 3: The ratification of the appointment of Ernst & Young LLP as the Company’s independent registered public accounting firm for the fiscal year ending December 31, 2016.
- Proposal 4: The approval of an amendment to the Company’s Restated Certificate of Incorporation allowing stockholders to remove directors with or without cause (the “Removal Amendment”).
- Proposal 5: The approval of an amendment to the Company’s Restated Certificate of Incorporation to, among other things, remove provisions that are out-of-date, obsolete or inoperative (the “Ancillary Amendment”).

For more information about the foregoing proposals, see the Proxy Statement. Of the 113,851,845 shares of the Company’s common stock entitled to vote at the Annual Meeting, 110,617,720 shares, or approximately 97.15%, were represented at the meeting in person or by proxy, constituting a quorum. The number of votes cast for, against

or withheld, as well as abstentions and broker non-votes, if applicable, in respect of each such proposal is set forth below:

- Proposal 1: Election of Directors.

The Company’s stockholders elected the following five directors to serve until the next annual meeting of stockholders. The votes regarding the election of directors were as follows:

Director	Votes For	Votes Withheld
Michael W. Aguiar	99,732,671	260,700
Catherine J. Friedman	97,197,260	2,796,111
Paul Pepe	98,670,143	1,323,228
James L. Tyree	97,755,943	2,237,428
William H. Waltrip	98,768,817	1,224,554

- Proposal 2: Advisory Vote to Approve Named Executive Officer Compensation.

The Company’s stockholders approved on an advisory basis the compensation paid to the Company’s named executive officers, as disclosed in the Proxy Statement. The votes regarding this proposal were as follows:

Votes For	Votes Against	Votes Abstaining	Broker Non-Votes
90,662,748	9,316,629	13,994	10,624,349

- Proposal 3: Ratification of Appointment of Ernst & Young LLP.

The Company’s stockholders ratified the appointment of Ernst & Young LLP as the Company’s independent registered public accounting firm for the fiscal year ending December 31, 2016. The votes regarding this proposal were as follows:

Votes For	Votes Against	Votes Abstaining	Broker Non-Votes
109,247,112	1,361,614	8,994	—

- Proposal 4: Removal Amendment.

The Company's stockholders approved the Removal Amendment, as further discussed in the Proxy Statement. The votes regarding this proposal were as follows:

<u>Votes For</u>	<u>Votes Against</u>	<u>Votes Abstaining</u>	<u>Broker Non-Votes</u>
109,933,018	423,916	260,786	—

Proposal 5: Ancillary Amendment.

The Company's stockholders approved the Ancillary Amendment, as further discussed in the Proxy Statement. The votes regarding this proposal were as follows:

<u>Votes For</u>	<u>Votes Against</u>	<u>Votes Abstaining</u>	<u>Broker Non-Votes</u>
99,860,525	125,339	7,507	10,624,349

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

**(d) Exhibits**

- 99.1 Press Release dated April 28, 2016
- 99.2 Restated Certificate of Incorporation of Innoviva, Inc. filed April 27, 2016

**SIGNATURE**

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

**INNOVIVA, INC.**

Date: April 28, 2016

By: /s/ Eric d'Esparbes  
**Eric d'Esparbes**  
**Chief Financial Officer**



## For Immediate Release

### Innoviva Reports First Quarter 2016 Financial Results

#### Including:

- Royalty revenues of \$27.4 million, a 171% increase compared to Q1 2015
- 37% quarter over quarter growth in U.S. prescriptions for RELVAR/BREO ELLIPTA
- Net income of \$4.4 million, or \$0.04 per share, and Adjusted Cash EPS of \$0.09 per share
- Management will host a conference call and webcast today at 5:00 p.m. EDT

**SOUTH SAN FRANCISCO, Calif., April 28, 2016** — Innoviva, Inc. (NASDAQ: INVA) today reported financial results for the first quarter ended March 31, 2016. Royalties earned on net sales of RELVAR®/BREO® ELLIPTA® and ANORO® ELLIPTA® from Glaxo Group Limited (GSK) during the first quarter of 2016 reached \$27.4 million, up from \$10.1 million in the first quarter 2015.

Income from operations for the first quarter of 2016 was \$17.5 million, compared to \$0.7 million in the same period in 2015 and to \$17.3 million in the fourth quarter 2015. Adjusted EBITDA was \$22.9 million, compared with \$6.2 million in the first quarter of 2015 and with \$22.4 million in the fourth quarter 2015. Net cash and cash equivalents, short-term investments, and marketable securities totaled \$168.2 million and reflected the repurchase of \$25.4 million in Innoviva stock during the quarter. Royalties receivable from GSK totaled \$27.4 million at March 31, 2016.

“We are very pleased with the performance of the company during the first quarter highlighted by ongoing gains in revenues, prescriptions, and market share for both RELVAR/BREO ELLIPTA and ANORO ELLIPTA. According to IMS, TRx prescription volumes in the US grew by 37% for BREO and by 22% for ANORO compared to the fourth quarter of 2015 while U.S. market share reached an all-time high for both products,” said Michael W. Aguiar, President and Chief Executive Officer of Innoviva. “Additionally, we continued to execute our capital return plan and have repurchased approximately \$25.4 million in Innoviva stock in 2016, consistent with our goal of providing long-term returns to our stockholders.”

#### Recent Highlights

- In the first quarter of 2016, net sales of RELVAR®/BREO® ELLIPTA® by GSK were \$161.9 million, compared to \$59.9 million in the first quarter of 2015 (a 170% increase), of which \$80.7 million was U.S. sales and \$81.2 million was sales from non-U.S. markets.
- As of March 31, 2016, RELVAR®/BREO® ELLIPTA® has been launched in more than 50 countries.
- In the first quarter of 2016, net sales of ANORO® ELLIPTA® by GSK were \$48.1 million, compared to \$17.7 million in the first quarter of 2015 (a 172% increase), comprised of \$32.7 million in the U.S. market and \$15.4 million in non-U.S. markets.
- As of March 31, 2016, ANORO® ELLIPTA® has been launched in more than 40 countries.
- During the first quarter and up to April 27 2016, Innoviva repurchased \$25.4 million of stock through open market purchases under its previously announced \$150 million share repurchase program, with an average purchase price of \$10.35 per share. Approximately \$100 million remain available under the repurchase program.

#### Additional Financial Results for the First Quarter of 2016

Total revenue for the first quarter of 2016 was \$24.2 million, which primarily resulted from royalties of \$27.4 million from net sales of RELVAR®/BREO® ELLIPTA® and ANORO® ELLIPTA®, compared to \$10.1 million in the first quarter of 2015 and to \$26.1 million in the fourth quarter of 2015. The majority of royalties were driven by sales of RELVAR®/BREO® ELLIPTA®.

Operating expenses for the first quarter of 2016 were \$6.6 million, compared with \$6.2 million in the first quarter of 2015 and with \$5.5 million in the fourth quarter of 2015.

Net income was \$4.4 million, or \$0.04 per share, in the first quarter of 2016, compared to a net loss of \$10.7 million or \$0.09 per share in the first quarter of 2015 and to a net profit of \$4.3 million, or \$0.04 per share, in the fourth quarter of 2015. Adjusted EBITDA was \$22.9 million for the first quarter of 2016, compared to \$6.2 million in the first quarter of 2015 (a 271% increase) and to \$22.4 million in the fourth quarter of 2015. Adjusted Cash EPS for the first quarter of 2016 was \$0.09 per share, compared to (\$0.05) per share in the first quarter of 2015.

#### Conference Call and Webcast Information

To participate in Innoviva’s conference call at 5:00 p.m. EDT today, please dial (877) 837-3908 from the U.S., or (973) 890-8166 for international callers. The conference call will also be webcast live by visiting Innoviva’s website at [www.inva.com](http://www.inva.com) and will be available for 30 days. An audio replay will also be available by dialing (855) 859-2056 from the U.S., or (404) 537-3406 for international callers, and entering confirmation code 36373209.

#### Non-GAAP Financial Measures

To supplement the consolidated financial statements presented in accordance with generally accepted accounting principles in the United States, or GAAP, Innoviva uses the non-GAAP financial measures of adjusted EBITDA and Adjusted Cash EPS. A reconciliation of these non-GAAP financial

measures to the closest GAAP financial measure is presented in the accompanying financial table under the headings “Reconciliation of Non-GAAP Financial Measures to GAAP.”

Innoviva believes that the non-GAAP financial information provided in this release can assist investors in understanding and assessing Innoviva’s on-going operations and prospects for the future and provides an additional tool for investors to use in comparing Innoviva’s financial results with other companies in Innoviva’s industry or with similar operating profiles. Adjusted EBITDA and Adjusted Cash EPS are used as supplemental financial measures by Innoviva’s management and frequently discussed with external users of its financial statements, such as investors, commercial banks, research analysts and others, to assess:

- the financial performance of Innoviva’s assets without regard to financing methods, capital structure, or historical cost basis;
- the ability of Innoviva’s assets to generate cash sufficient to pay interest costs and support its indebtedness; and
- Innoviva’s operating performance and cash return on investment compared to those of other companies, without regard to financing or capital structures.

2

---

Adjusted EBITDA is determined by taking GAAP net income from operations and adding back stock-based compensation expense from continuing operations, depreciation expense from continuing operations and amortization of capitalized fees paid to a related party. Innoviva believes the non-GAAP measure of adjusted EBITDA is important as it measures the Company’s ability to generate cash to pay interest costs and support its indebtedness, and it is also used currently in the Company’s annual performance review process. Innoviva’s method of computing adjusted EBITDA may not be the same method used to compute similar measures reported by other companies.

Adjusted Cash EPS is determined by taking GAAP net income and adding back stock-based compensation expense from continuing operations, depreciation expense from continuing operations and amortization of capitalized fees paid to a related party, and dividing the total by the fully diluted number of shares outstanding used to calculate the GAAP diluted EPS. Innoviva believes the non-GAAP measure of Adjusted Cash EPS provides useful information about the Company’s core operating performance and cash return on investment, and enhances the overall understanding of the Company’s past financial performance and its prospects for the future. Innoviva’s method of computing Adjusted Cash EPS may not be the same method used to compute similar measures reported by other companies.

Adjusted EBITDA and Adjusted Cash EPS should not be considered in isolation or as a substitute to net income/loss, income/loss from operations, cash flows from operating activities, earnings per share or any other measure of financial performance presented in accordance with GAAP. Adjusted EBITDA and Adjusted Cash EPS are not intended to represent cash flow and do not represent a measure of cash available for distribution. The principal limitation of these non-GAAP financial measures is that it excludes significant elements that are required by GAAP to be recorded in Innoviva’s consolidated financial statements. In addition, it is subject to inherent limitations as it reflects the exercise of judgments by management in determining these non-GAAP financial measures. In order to compensate for these limitations, management of Innoviva presents its non-GAAP financial measures in connection with its GAAP results. Investors are encouraged to review the reconciliation of Innoviva’s non-GAAP financial measures to their most directly comparable GAAP financial measure.

## About Innoviva

Innoviva is focused on bringing compelling new medicines to patients in areas of unmet need by leveraging its significant expertise in the development, commercialization and financial management of bio-pharmaceuticals. Innoviva’s portfolio is anchored by the respiratory assets partnered with Glaxo Group Limited (GSK), including RELVAR®/BREO® ELLIPTA® and ANORO® ELLIPTA®, which were jointly developed by Innoviva and GSK. Under the agreement with GSK, Innoviva is eligible to receive associated royalty revenues from RELVAR®/BREO® ELLIPTA®, ANORO® ELLIPTA® and, if approved and commercialized, VI monotherapy, as well. In addition, Innoviva retains a 15 percent economic interest in future payments made by GSK for earlier-stage programs partnered with Theravance BioPharma, Inc. For more information, please visit Innoviva’s website at [www.inva.com](http://www.inva.com).

ANORO®, RELVAR®, BREO® and ELLIPTA® are trademarks of the GlaxoSmithKline group of companies.

3

---

## Forward Looking Statements

This press release contains certain “forward-looking” statements as that term is defined in the Private Securities Litigation Reform Act of 1995 regarding, among other things, statements relating to goals, plans, objectives and future events. Innoviva intends such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in Section 21E of the Securities Exchange Act of 1934 and the Private Securities Litigation Reform Act of 1995. Such forward-looking statements involve substantial risks, uncertainties and assumptions. Examples of such statements include statements relating to: prescription and market share trends, payor coverage, the strategies, plans and objectives of the Company, future purchases under the Company’s share repurchase program, the status and timing of clinical studies, data analysis and communication of results, the potential benefits and mechanisms of action of product candidates, expectations for products, and projections of revenue, expenses and other financial items. These statements are based on the current estimates and assumptions of the management of Innoviva as of the date of this press release and are subject to risks, uncertainties, changes in circumstances, assumptions and other factors that may cause the actual results of Innoviva to be materially different from those reflected in the forward-looking statements. Important factors that could cause actual results to differ materially from those indicated by such forward-looking statements include, among others, risks related to: lower than expected future royalty revenue from respiratory products partnered with GSK, delays or difficulties in commencing or completing clinical studies, the potential that results from clinical or non-clinical studies indicate product candidates are unsafe or ineffective, dependence on third parties to conduct its clinical studies, delays or failure to achieve and maintain regulatory approvals for product candidates, and risks of collaborating with third parties to discover, develop and commercialize products. Other risks affecting Innoviva are described under the headings “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” contained in Innoviva’s Annual Report on Form 10-K for the year ended December 31, 2015, which is on file with the Securities and Exchange Commission (SEC) and available on the SEC’s website at [www.sec.gov](http://www.sec.gov). Additional factors may be described in those sections of Innoviva’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2016, to

be filed with the SEC in the second quarter of 2016. In addition to the risks described above and in Innoviva's other filings with the SEC, other unknown or unpredictable factors also could affect Innoviva's results. Past performance is not necessarily indicative of future results. No forward-looking statements can be guaranteed and actual results may differ materially from such statements. Given these uncertainties, you should not place undue reliance on these forward-looking statements. Innoviva assumes no obligation to update its forward-looking statements on account of new information, future events or otherwise, except as required by law.

**Contact:**

Eric d'Esparbes  
Sr. Vice President and Chief Financial Officer  
650-238-9640  
investor.relations@inva.com

4

INNOVIVA, INC.  
Condensed Consolidated Statements of Operations  
(in thousands, except per share data)

	Three Months Ended March 31,	
	2016	2015
	(unaudited)	
<b>Revenue:</b>		
Royalty revenue from a related party, net	\$ 23,955	\$ 6,674
Revenue from collaborative arrangements from a related party	221	222
Total revenue(1)	24,176	6,896
<b>Operating expenses:</b>		
Research and development	392	712
General and administrative	6,252	5,439
Total operating expenses(2)	6,644	6,151
Income from operations	17,532	745
Other income (expense), net	(32)	1,178
Interest income	92	116
Interest expense	(13,157)	(12,706)
Net income (loss)	\$ 4,435	\$ (10,667)
Basic and diluted earnings per share	\$ 0.04	\$ (0.09)
Shares used in computing basic earnings per share	112,482	114,658
Shares used in computing diluted earnings per share	113,178	114,658
Cash dividends declared per common share	\$ —	\$ 0.25

5

INNOVIVA, INC.  
Condensed Consolidated Statements of Operations  
(in thousands, except per share data)

	Three Months Ended	
	March 31, 2016	December 31, 2015
	(unaudited)	
<b>Revenue:</b>		
Royalty revenue from a related party, net	\$ 23,955	\$ 22,615
Revenue from collaborative arrangements from a related party	221	221
Total revenue	24,176	22,836
<b>Operating expenses:</b>		
Research and development	392	722
General and administrative	6,252	4,821
Total operating expenses	6,644	5,543
Income from operations	17,532	17,293
Other income (expense), net	(32)	3

Interest income		92	52
Interest expense		(13,157)	(13,047)
Net income		<u>\$ 4,435</u>	<u>\$ 4,301</u>
Basic and diluted earnings per share		\$ 0.04	\$ 0.04
Shares used in computing basic earnings per share		112,482	115,183
Shares used in computing diluted earnings per share		113,178	115,482

6

(1) Revenue is comprised of the following (in thousands):

	Three Months Ended March 31,	
	2016	2015
	(unaudited)	
Royalties from a related party	\$ 27,411	\$ 10,130
Amortization of capitalized fees paid to a related party	(3,456)	(3,456)
Royalty revenue	23,955	6,674
Strategic alliance - MABA program	221	222
Total revenue from a related party	<u>\$ 24,176</u>	<u>\$ 6,896</u>

(2) Amounts include stock-based compensation expense as follows (in thousands):

	Three Months Ended March 31,	
	2016	2015
	(unaudited)	
Research and development	\$ 175	\$ 235
General and administrative	1,689	1,698
Total stock-based compensation expense	<u>\$ 1,864</u>	<u>\$ 1,933</u>

7

INNOVIVA, INC.  
Consolidated Balance Sheets  
(in thousands)

	March 31, 2016 (unaudited)	December 31, 2015 (1)
<b>Assets</b>		
Cash, cash equivalents and marketable securities	\$ 168,192	\$ 187,283
Other current assets	28,514	27,042
Property and equipment, net	193	221
Capitalized fees paid to a related party, net	190,912	194,368
Other assets	18	18
Total assets	<u>\$ 387,829</u>	<u>\$ 408,932</u>
<b>Liabilities and stockholders' deficit</b>		
Other current liabilities	\$ 3,176	\$ 4,695
Accrued interest payable	6,562	7,911
Deferred revenue	3,763	3,984
Convertible subordinated notes	251,124	250,992
Non-recourse notes payable, due 2029	483,389	482,139
Other long-term liabilities	1,784	1,856
Stockholders' deficit	(361,969)	(342,645)
Total liabilities and stockholders' deficit	<u>\$ 387,829</u>	<u>\$ 408,932</u>

(1) The selected consolidated balance sheet amounts at December 31, 2015 are derived from audited financial statements.

8

	Three Months Ended	
	2016	2015
	March 31, (unaudited)	
Reconciliation from GAAP net income from operations to adjusted EBITDA:		
GAAP net income from operations	\$ 17,532	\$ 745
Non-GAAP adjustments:		
Stock-based compensation	1,864	1,933
Depreciation	28	27
Amortization of capitalized fees paid to a related party	3,456	3,456
Adjusted EBITDA	<u>\$ 22,880</u>	<u>\$ 6,161</u>

INNOVIVA, INC.  
Reconciliation of GAAP to Non-GAAP Operating Results  
(in thousands)

	Three Months Ended	
	March 31, 2016	December 31, 2015
	(unaudited)	
Reconciliation from GAAP net income from operations to adjusted EBITDA:		
GAAP net income from operations	\$ 17,532	\$ 17,293
Non-GAAP adjustments:		
Stock-based compensation	1,864	1,650
Depreciation	28	28
Amortization of capitalized fees paid to a related party	3,456	3,456
Adjusted EBITDA	<u>\$ 22,880</u>	<u>\$ 22,427</u>

9

INNOVIVA, INC.  
Reconciliation of GAAP to Non-GAAP Operating Results  
(in thousands)

	Three Months Ended	
	2016	2015
	March 31, (unaudited)	
Reconciliation from GAAP net income to adjusted cash earnings:		
GAAP net income	\$ 4,435	\$ (10,667)
Non-GAAP adjustments:		
Stock-based compensation	1,864	1,933
Depreciation	28	27
Amortization of capitalized fees paid to a related party	3,456	3,456
Adjusted cash earnings	<u>\$ 9,783</u>	<u>\$ (5,251)</u>
Basic and diluted adjusted cash earnings per share	\$ 0.09	\$ (0.05)
Shares used in computing basic adjusted cash earnings per share	112,482	114,658
Shares used in computing diluted adjusted cash earnings per share	113,178	114,658

10



**RESTATED CERTIFICATE OF INCORPORATION  
OF  
INNOVIVA, INC.**

**(Pursuant to Sections 242 and 245 of the  
General Corporation Law of the State of Delaware)**

Innoviva, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "General Corporation Law"),

DOES HEREBY CERTIFY:

FIRST: That the name of this corporation is Innoviva, Inc. and that this corporation was originally incorporated pursuant to the General Corporation Law on November 19, 1996 under the name Advanced Medicine, Inc.

SECOND: That the Board of Directors duly adopted resolutions proposing to further amend and restate the Restated Certificate of Incorporation of this corporation, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor, which resolution setting forth the proposed amendment and restatement is as follows:

RESOLVED, that the Restated Certificate of Incorporation of this corporation be further amended and restated in its entirety as follows:

ARTICLE I

The name of this corporation is Innoviva, Inc.

ARTICLE II

The address of the registered office of this corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, 19801, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE IV

A. Classes of Stock. This corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number

---

of shares that this corporation is authorized to issue is 200,230,000 shares. 200,000,000 shares shall be Common Stock and 230,000 shares shall be Preferred Stock, each with a par value of \$0.01 per share.

B. Preferred Stock.

1. Designation and Amount. All 230,000 shares of Preferred Stock shall be designated as "Series A Junior Participating Preferred Stock".

2. Dividends and Distribution.

(a) Subject to the prior and superior rights of the holders of any shares of any class or series of stock of the Corporation ranking prior and superior to the shares of Series A Junior Participating Preferred Stock with respect to dividends, the holders of shares of Series A Junior Participating Preferred Stock, in preference to the holders of shares of any class or series of stock of the Corporation ranking junior to the Series A Junior Participating Preferred Stock in respect thereof, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable in cash on the last day of March, June, September and December, in each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series A Junior Participating Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (i) \$1.00 or (ii) the Adjustment Number (as defined below) times the aggregate per share amount of all cash dividends, and the Adjustment Number times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock, since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series A Junior Participating Preferred Stock. The "Adjustment Number" shall initially be 1,000. In the event the Corporation shall at any time after the date upon which this Amended and Restated Certificate of Incorporation is accepted for filing by the Secretary of State of the State of Delaware (i) declare and pay any dividend on Common Stock or payable in shares of Common Stock (ii) subdivide the outstanding Common Stock or (iii) combine the outstanding Common Stock into a smaller number of shares, then in each such case the Adjustment Number in effect immediately prior to such event shall be adjusted by multiplying such Adjustment Number by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock, that were outstanding immediately prior to such event.

(b) The Corporation shall declare a dividend or distribution on the Series A Junior Participating Preferred Stock as provided in paragraph (a) above immediately after it declares a dividend or distribution on the Common Stock (other than a dividend payable in shares of

(c) Dividends shall begin to accrue and be cumulative on outstanding shares of Series A Junior Participating Preferred Stock from the Quarterly Dividend

---

Payment Date next preceding the date of issue of such shares of Series A Junior Participating Preferred Stock, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Series A Junior Participating Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series A Junior Participating Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Series A Junior Participating Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be no more than 60 days prior to the date fixed for the payment thereof.

3. Voting Rights. The holders of shares of Series A Junior Participating Preferred Stock shall have the following voting rights:

(a) Each share of Series A Junior Participating Preferred Stock shall entitle the holder thereof to a number of votes equal to the Adjustment Number on all matters submitted to a vote of the stockholders of the Corporation.

(b) Except as required by law, by Section 3(c) and by Section 10 of this Article IV(B), holders of Series A Junior Participating Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of Common Stock as set forth herein) for taking any corporate action.

(c) If, at the time of any annual meeting of stockholders for the election of directors, the equivalent of six quarterly dividends (whether or not consecutive) payable on any share or shares of Series A Junior Participating Preferred Stock are in default, the number of directors constituting the Board of Directors of the Corporation shall be increased automatically by two. In addition to voting together with the holders of Common Stock for the election of other directors of the Corporation, the holders of record of the Series A Junior Participating Preferred Stock, voting separately as a class to the exclusion of the holders of Common Stock, shall be entitled at said meeting of stockholders (and at each subsequent annual meeting of stockholders), unless all dividends in arrears on the Series A Junior Participating Preferred Stock have been paid or declared and set apart for payment prior thereto, to vote for the election of two directors of the Corporation, the holders of any Series A Junior Participating Preferred Stock being entitled to cast a number of votes per share of Series A Junior Participating Preferred Stock as is specified in paragraph (a) of this Section 3. Each such additional director shall serve until the next annual meeting of stockholders for the election of directors, or until his successor shall be elected and shall qualify, or until his right to hold such office terminates pursuant to the provisions of this Section 3(c). Until the default in payments of all dividends which permitted the election of said directors shall cease to exist, any director who shall have been so elected pursuant to the provisions of this Section 3(c) may be removed at any time, without cause, only by the affirmative vote of the holders of the shares of Series A Junior

---

Participating Preferred Stock at the time entitled to cast a majority of the votes entitled to be cast for the election of any such director at a special meeting of such holders called for that purpose, and any vacancy thereby created may be filled by the vote of such holders. If and when such default shall cease to exist, the holders of the Series A Junior Participating Preferred Stock shall be divested of the foregoing special voting rights, subject to reversion in the event of each and every subsequent like default in payments of dividends. Upon the termination of the foregoing special voting rights, the terms of office of all persons who may have been elected directors pursuant to said special voting rights shall forthwith terminate, and the number of directors constituting the Board of Directors shall be reduced automatically by two. The voting rights granted by this Section 3(c) shall be in addition to any other voting rights granted to the holders of the Series A Junior Participating Preferred Stock in this Section 3.

4. Certain Restrictions.

(a) Whenever quarterly dividends or other dividends or distributions payable on the Series A Junior Participating Preferred Stock as provided in Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series A Junior Participating Preferred Stock outstanding shall have been paid in full, the Corporation shall not:

(i) declare or pay dividends on, make any other distributions on, or redeem or purchase or otherwise acquire for consideration any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Junior Participating Preferred Stock;

(ii) declare or pay dividends on or make any other distributions on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Junior Participating Preferred Stock, except dividends paid ratably on the Series A Junior Participating Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled; or

(iii) purchase or otherwise acquire for consideration any shares of Series A Junior Participating Preferred Stock, or any shares of stock ranking on a parity with the Series A Junior Participating Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of Series A Junior Participating Preferred Stock, or to such holders and holders of any such shares ranking on a parity therewith, upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(b) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for consideration any shares of stock of the Corporation unless the Corporation could, under paragraph (a) of this Section 4, purchase or otherwise acquire such shares at such time and in such manner.

4

---

5. **Reacquired Shares.** Any shares of Series A Junior Participating Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired promptly after the acquisition thereof. All such shares shall upon their retirement become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board of Directors, subject to any conditions and restrictions on issuance set forth herein.

6. **Liquidation, Dissolution or Winding Up.**

(a) Upon any liquidation, dissolution or winding up of the Corporation, voluntary or otherwise, no distribution shall be made to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Junior Participating Preferred Stock unless, prior thereto, the holders of shares of Series A Junior Participating Preferred Stock shall have received an amount per share (the "Series A Liquidation Preference") equal to the greater of (i) \$10.00 plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, or (ii) the Adjustment Number times the per share amount of all cash and other property to be distributed in respect of the Common Stock upon such liquidation, dissolution or winding up of the Corporation.

(b) In the event, however, that there are not sufficient assets available to permit payment in full of the Series A Liquidation Preference and the liquidation preferences of all other classes and series of stock of the Corporation, if any, that rank on a parity with the Series A Junior Participating Preferred Stock in respect thereof, then the assets available for such distribution shall be distributed ratably to the holders of the Series A Junior Participating Preferred Stock and the holders of such parity shares in proportion to their respective liquidation preferences.

(c) Neither the merger or consolidation of the Corporation into or with another corporation nor the merger or consolidation of any other corporation into or with the Corporation shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 6.

7. **Consolidation, Merger, Etc.** In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the outstanding shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case each share of Series A Junior Participating Preferred Stock shall at the same time be similarly exchanged or changed in an amount per share equal to the Adjustment Number times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged.

8. **No Redemption.** Shares of Series A Junior Participating Preferred Stock shall not be subject to redemption by the Corporation.

9. **Ranking.** The Series A Junior Participating Preferred Stock shall rank junior to all other series of the Preferred Stock as to the payment of dividends and as to the

5

---

distribution of assets upon liquidation, dissolution or winding up, unless the terms of any such series shall provide otherwise, and shall rank senior to the Common Stock as to such matters.

10. **Amendment.** Notwithstanding any other provision of this Restated Certificate of Incorporation or any provision of law which might otherwise permit a lesser vote or no vote, but in addition to any vote of the holders of any class or series of the stock of this Corporation required by law or by this Restated Certificate of Incorporation, at any time that any shares of Series A Junior Participating Preferred Stock are outstanding, this Restated Certificate of Incorporation shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of the Series A Junior Participating Preferred Stock so as to affect them adversely without the affirmative vote of the holders of two-thirds of the outstanding shares of Series A Junior Participating Preferred Stock, voting separately as a class.

11. **Fractional Shares.** Series A Junior Participating Preferred Stock may be issued in fractions of a share that shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series A Junior Participating Preferred Stock.

C. **Common Stock.** The rights, preferences, privileges and restrictions granted to and imposed on the Common Stock are as set forth below in this Section C of this Article IV.

1. **Dividend Rights.** Subject to the prior rights of holders of all classes of stock at the time outstanding having prior rights as to dividends, if any, the holders of the Common Stock shall be entitled to receive, when and as declared by the Board of Directors, out of any assets of this corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors and shall share equally on a per share basis in all such dividends and other distributions.

2. **Liquidation Rights.** Upon the liquidation, dissolution or winding up of this corporation, subject to the prior rights of holders of all classes of stock at the time outstanding having prior rights, if any, the assets of this corporation shall be distributed among the holders of Common Stock pro rata based on the number of shares of Common Stock held by each.

3. **Voting Rights.** The holder of each share of Common Stock shall have the right to one vote for each such share, and shall be entitled to notice of any stockholders' meeting in accordance with the bylaws of this corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of

shares thereof then outstanding) by the affirmative vote of the holders of a majority of the stock of this corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

4. Redemption. The Common Stock is not redeemable.

6

---

#### ARTICLE V

The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

- A. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by this Restated Certificate of Incorporation or the Bylaws of the Corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.
- B. The directors of the Corporation need not be elected by written ballot unless the Bylaws so provide.
- C. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

#### ARTICLE VI

Subject to Section 3(c) of Article IV(B), the number of directors of the Corporation shall be fixed from time to time by the Board of Directors pursuant to a resolution adopted by a majority of the Whole Board. For purposes of this Restated Certificate of Incorporation, the term "Whole Board" shall mean the total number of authorized directors whether or not there exist any vacancies in previously authorized directorships. Each director shall serve until such director's successor shall have been duly elected and qualified, or until such director's prior death, resignation, retirement, disqualification or other removal.

Subject to the rights of the holders of any series of Preferred Stock then outstanding, any directors, or the entire Board of Directors, may be removed from office at any time, with or without cause, by the affirmative vote of the holders of at least sixty-six and two-thirds percent (66-2/3%) of the voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

#### ARTICLE VII

To the fullest extent permitted by the laws of the State of Delaware as it exists or may hereafter be amended, no director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

Any repeal or modification of the foregoing provisions of this Article VII by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of this Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

7

---

#### ARTICLE VIII

The Board of Directors is expressly empowered to adopt, amend or repeal any or all of the Bylaws of the Corporation. Any adoption, amendment or repeal of the Bylaws of the Corporation by the Board of Directors shall require the approval of a majority of the Whole Board. The stockholders shall also have power to adopt, amend or repeal the Bylaws of the Corporation; provided, however, that, in addition to any vote of the holders of any class or series of stock of the Corporation required by law or by this Restated Certificate of Incorporation, the affirmative vote of the holders of at least sixty-six and two-thirds percent (66-2/3%) of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to adopt, amend or repeal any provision of the Bylaws of the Corporation.

#### ARTICLE IX

In addition to any vote of the holders of any class or series of the stock of this Corporation required by law which might otherwise permit a lesser vote or no vote, or this Restated Certificate of Incorporation, the affirmative vote of the holders of a majority of the voting power of all of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to amend or repeal the provisions of Articles I, II, III and IV of this Restated Certificate of Incorporation. In addition to any vote of the holders of any class or series of stock of the Corporation required by law or this Restated Certificate of Incorporation, the affirmative vote of the holders of shares of voting stock of the Corporation representing at least sixty-six and two-thirds percent (66 2/3%) of the voting power of all the then outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to (i) reduce or eliminate the number of authorized shares of Common Stock or the number of authorized shares of Preferred Stock set forth in Article IV or (ii) amend or repeal, or adopt any provision inconsistent with Parts A and B of Article IV, and Articles V, VI, VII, VIII, and this Article IX of this Restated Certificate of Incorporation.

#### ARTICLE X

A. In recognition and anticipation (1) that directors, officers, employees or designees of SmithKline Beecham Corporation, a Pennsylvania corporation ("GSK") may serve as directors of this corporation, (2) that GSK or companies which, following completion of the Transaction, are controlled by, control or are under common control with GSK (excluding the corporation and any company that is controlled by the corporation) (the "GSK Group") engages and is expected to continue to engage in the same, similar or related activities and lines of business as those in which the corporation and its

affiliates may engage and/or engage in other business activities that overlap with or compete with those in which the corporation and its affiliates may engage, subject only to any agreements to which the GSK Group and this corporation and its affiliates may be parties, (3) that the corporation and its affiliates will engage in material business transactions with the GSK Group, including (without limitation) being a significant supplier of the GSK Group and engaging in joint ventures and joint development activities, and that this corporation is expected to benefit therefrom, (4) that the corporation and its affiliates, on the one hand, and the GSK Group, on the other hand, may seek to take advantage

of the same or related business and corporate opportunities or may seek to take advantage of corporate and business opportunities that are suitable for or of interest to the other or might be suitable for or of interest to the other if the other were aware of such opportunities, and (5) that, as a consequence of the foregoing, it is in the best interests of this corporation that the respective rights and duties of the corporation and of GSK, and the duties of any directors or officers of this corporation who are serving as designees of GSK, be determined and delineated in respect of any transactions between, or opportunities that may be suitable for or of interest to, both of the corporation and its affiliates, on the one hand, and the GSK Group, on the other hand, the provisions of this Article X shall regulate and define the conduct of certain of the business and affairs of the corporation and its affiliates in relation to GSK and any directors or officers of the corporation who are serving as designees of GSK. As used in this Article X, the corporation's affiliates do not include members of the GSK Group.

B. 1. The corporation and its affiliates, on the one hand, and the GSK Group, on the other hand, may each take advantage of any or all business and corporate opportunities that may be available to them without offering the other any such business or corporate opportunity, informing the other of the existence of any such business or corporate opportunity, or giving the other the opportunity to participate in any such business or corporate opportunity, and the GSK Group shall have no duty arising from engaging in the same or similar activities or lines of business as the corporation and its affiliates, and neither the GSK Group nor any of its or their respective directors or officers shall be liable to this corporation or its stockholders for any breach of any duty to this corporation by reason of such activities by the GSK Group, except as expressly contemplated by section 2 of this Article X, Section B. Without limiting the foregoing, the corporation and its affiliates, on the one hand, and the GSK Group, on the other hand, may separately compete for the same acquisition opportunities, in the development or acquisition of the same or similar technology or intellectual property rights, and for the same customers and the same suppliers. The corporation, on its own behalf and on behalf of its affiliates, to the fullest extent permitted by law, renounces any interest in or expectancy in, any or all corporate and business opportunities that are presented to the GSK Group or to any of their officers, directors and employees, even if such officers, directors or employees are also directors of the corporation, except as expressly contemplated by section 2 of this Article X, Section B and waives any claim that any such opportunity constituted a corporate opportunity of the corporation that should have been presented to the corporation or any of its affiliates; provided, that such renunciation shall not prevent the corporation or its affiliates from separately seeking to take advantage of any or all of such corporate and business opportunities that come to the corporation or its affiliates, or its officers, directors or employees, in their own right, or that the corporation or its affiliates, or its officers, directors or employees become aware of in their own right. Without limiting the foregoing, except as expressly set forth in subsection 2 of this Article X, Section B, no director, officer or employee of the GSK Group who is also a director or officer of the corporation shall have any duty to inform the corporation (or any of its other directors or its officers) of the availability or potential availability of any corporate or business opportunity known to such person in his or her capacity as an officer, director or employee of GSK or any member of the GSK Group or to inform the corporation (or its other directors or officers) of the plans of the GSK Group with respect thereto.

2. In the event that a director of the corporation who has been designated by GSK to serve on the board of directors acquires knowledge of a potential

transaction or technology or other matter which may be a corporate or business opportunity for both the corporation and the GSK Group, such director shall to the fullest extent permitted by law have fully satisfied and fulfilled the fiduciary duty of such director to the corporation and its stockholders with respect to such corporate and business opportunity, and the corporation to the fullest extent permitted by law renounces its interest in and waives any claim that such corporate or business opportunity constituted a corporate opportunity of the corporation that should have been presented to the corporation or any of its affiliates, if such director acts in a manner consistent with the following policy:

(a) A corporate or business opportunity offered to any person who is a director of this corporation, and who is not a director, officer or employee of the GSK Group, shall belong to the corporation; and

(b) A corporate or business opportunity offered to any person who is a director of the corporation and who is a director, officer or employee of GSK or a member of the GSK Group, shall belong to the corporation only if such opportunity is expressly offered to such person primarily in his or her capacity as a director of the corporation, and otherwise shall belong to GSK.

3. Nothing in this Article X, Section B shall invalidate, limit or restrict the enforceability of any agreement properly entered into by the corporation and GSK, including any non-competition agreement or agreement to provide information or share business or corporate opportunities or participate in business or corporate opportunities, or agreement intended to further effectuate the general purposes of this Article X, Section B.

C. The provisions of this Article X shall have no further force or effect at such time as GSK shall first cease to be the owner, in the aggregate, of twenty percent (20%) or more of the Common Stock; *provided, however*, that such termination shall not terminate the effect of such provisions with respect to (1) any agreement that was entered into before such time or any transaction entered into in the performance of such agreement, whether entered into before or after such time, (2) any transaction entered into before such time, or (3) any business opportunity that first arose before that time.

D. Notwithstanding anything to the contrary elsewhere contained in this Restated Certificate of Incorporation, the affirmative vote of the holders of at least 85% of the voting power of all shares of the Corporation's voting stock then outstanding, voting together as a single class, shall be required to alter, amend or repeal, or to adopt any provision inconsistent with, this Article X.

\* \* \*

THIRD: The foregoing amendment and restatement of the Restated Certificate of Incorporation of this corporation was approved by the holders of the requisite number of shares of said corporation in accordance with Section 228 of the General Corporation Law.

FOURTH: That said amendment and restatement was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law.

IN WITNESS WHEREOF, this Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 27th day of April, 2016.

/s/ Michael W. Aguiar  
\_\_\_\_\_  
Michael W. Aguiar  
President and Chief Executive Officer

---