

EX-10.1 3 d767954dex101.htm EX-10.1

Exhibit 10.1

Execution Version

[REDACTED]

Common Stock
(par value \$0.0001 per share)

At Market Issuance Sales Agreement

August 14, 2019

[REDACTED]
299 Park Avenue, 21st Floor
New York, NY 10171

Ladies and Gentlemen:

[REDACTED] Delaware corporation (the "Company"), confirms its agreement (this "Agreement") with [REDACTED] Inc. (the "Agent") as fo [REDACTED]

1. Issuance and Sale of Shares. The parties agree that, from time to time during the term of this Agreement, on the terms and subject to the conditions set forth herein, the Company may issue and sell through or to the Agent, as sales agent or principal, shares (the "Placement Shares") of the Company's common stock, par value \$0.0001 per share (the "Common Stock"); *provided however*, that in no event shall the Company issue or sell through the Agent such number of Placement Shares that (a) exceeds the number of shares or dollar amount of Common Stock registered on the effective Registration Statement (as defined below) pursuant to which the offering is being made (b) exceeds the number or dollar amount of shares of Common Stock permitted to be sold under Form S-3 (including General Instruction I.B.6 thereof, if applicable), or (c) exceeds the number of shares or dollar amount registered on the Prospectus Supplement (as defined below) (the lesser of (a), (b) or (c) the "Maximum Amount"); and *provided further, however*, that in no event shall the aggregate number of Placement Shares sold pursuant to this Agreement exceed the number of authorized but unissued shares of Common Stock. Notwithstanding anything to the contrary contained herein, the parties hereto agree that compliance with the limitations set forth in this Section 1 on the number of Placement Shares issued and sold under this Agreement shall be the sole responsibility of the Company and that the Agent shall have no obligation in connection with such compliance. The issuance and sale of Placement Shares through the Agent will be effected pursuant to the Registration Statement (as defined below), although nothing in this Agreement shall be construed as requiring the Company to use the Registration Statement to issue any Placement Shares.

The Company has filed, in accordance with the provisions of the Securities Act of 1933, as amended and the rules and regulations thereunder (the "Securities Act"), with the Securities and Exchange Commission (the "Commission"), a registration statement on Form S-3 (File No. 333-224423), including a base prospectus, relating to certain securities, including the Placement Shares to be issued from time to time by the Company, and which incorporates by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended and the rules and regulations thereunder (the