As filed with the Securities and Exchange Commission on August 18, 2021

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

PROCEPT BIOROBOTICS CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	**3841**	**26-0199180**
(State or other jurisdiction of incorporation or organization)	**(Primary Standard Industrial Classification Code Number)**	**(I.R.S. Employer Identification No.)**

900 Island Drive
Redwood City, CA, 94065
(650) 232-7200
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Reza Zadno, Ph.D.
Chief Executive Officer
900 Island Drive
Redwood City, CA, 94065
(650) 232-7200
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

B. Shayne Kennedy **Drew Capurro** **Latham & Watkins LLP** **650 Town Center Drive, 20th Floor** **Costa Mesa, CA 92626** **(714) 540-1235**	**Alaleh Nouri** **General Counsel** **Jonathan Stone** **Senior Corporate Counsel** **900 Island Drive** **Redwood City, CA, 94065** **(650) 232-7200**	**Charles S. Kim** **Kristin VanderPas** **Dave Peinsipp** **Denny Won** **Cooley LLP** **4401 Eastgate Mall** **San Diego, CA 92121** **(858) 550-6000**

Approximate date of commencement of proposed sale to the public: As soon as practicable after this Registration Statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box. o

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	o	Accelerated filer	o
Non-accelerated filer	x	Smaller reporting company	x
		Emerging growth company	x

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 7(a)(2)(B) of the Securities Act. ☐

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	**Proposed maximum aggregate offering price[(1)(2)]**	**Amount of registration fee[(3)]**
Common stock, par value $0.00001 per share	$100,000,000	$10,910

(1) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(o) under the Securities Act of 1933, as amended.
(2) Includes the offering price of shares of common stock that may be sold if the underwriters fully exercise their option to purchase additional shares of common stock.
(3) To be paid in connection with the initial filing of the registration statement.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

Shares

Common Stock

This is an initial public offering of shares of common stock of PROCEPT BioRobotics Corporation. We are selling shares of our common stock.

Prior to this offering, there has been no public market for our common stock. It is currently estimated that the initial public offering price will be between $ and $ per share. We have applied to list our common stock on the Nasdaq Global Market under the symbol "PRCT."

We are an "emerging growth company" and a "smaller reporting company" as defined under the federal securities laws and, as such, we have elected to comply with certain reduced public company reporting requirements for this prospectus and may elect to do so in future filings.

Investing in our common stock involves risks that are described in the "Risk Factors" section beginning on page 14 of this prospectus.

	Per Share	Total
Initial public offering price	$	$
Underwriting discounts and commissions[(1)]	$	$
Proceeds, before expenses, to us	$	$

(1) See the section titled "Underwriting" for additional information regarding compensation payable to the underwriters.

To the extent that the underwriters sell more than shares of common stock, the underwriters have the option to purchase up to an additional shares of common stock from us at the initial public offering price less the underwriting discounts and commissions.

Neither the Securities and Exchange Commission nor any other state securities commission has approved or disapproved of these securities or passed on the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the shares of common stock to purchasers on or about , 2021.

BofA Securities **Goldman Sachs & Co. LLC**

Cowen **Guggenheim Securities** **SVB Leerink**

The date of this prospectus is , 2021

PROCEPT®
BioRobotics

Treatment of Choice
for All Prostates

AQUABLATION®
Therapy by PROCEPT BioRobotics

TABLE OF CONTENTS

We have not, and the underwriters have not, authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses prepared by or on behalf of us or to which we have referred you. We and the underwriters take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus is an offer to sell only the shares of common stock offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus or in any applicable free writing prospectus is current only as of its date, regardless of its time of delivery or any sale of shares of our common stock. Our business, financial condition, results of operations and prospects may have changed since that date.

For investors outside the United States: We have not, and the underwriters have not, done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the shares of common stock and the distribution of this prospectus outside the United States.

MARKET AND INDUSTRY DATA

This prospectus includes estimates regarding market and industry data that we prepared based on our management's knowledge and experience in the markets in which we operate, together with information obtained from various sources, including publicly available information, industry reports and publications, surveys, our customers, distributors, suppliers, trade and business organizations and other contacts in the markets in which we operate. In some cases, we do not expressly refer to the sources from which this data is derived. Management estimates are derived from publicly available information released by independent industry analysts and third-party sources, as well as data from our internal research, and are based on assumptions made by us upon reviewing such data and our knowledge of such industry and markets which we believe to be reasonable.

In presenting this information, we have made certain assumptions that we believe to be reasonable based on such data and other similar sources and on our knowledge of, and our experience to date in, the markets for the products we distribute. Market share data is subject to change and may be limited by the availability of raw data, the voluntary nature of the data gathering process and other limitations inherent in any statistical survey of market shares. In addition, customer preferences are subject to change.

CERTAIN TRADEMARKS, TRADE NAMES AND SERVICE MARKS

This prospectus includes trademarks and service marks owned by us, including, without limitation, PROCEPT BioRobotics®, AquaBeam®, Aquablation®, and our logo, which are our property and are protected under applicable intellectual property laws. This prospectus also contains trademarks, trade names and service marks of other companies, which are the property of their respective owners. Solely for convenience, trademarks, trade names and service marks referred to in this prospectus may appear without the ®, ™ or SM symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the right of the applicable licensor to these trademarks, trade names and service marks. We do not intend our use or display of other parties' trademarks, trade names or service marks to imply, and such use or display should not be construed to imply, a relationship with, or endorsement or sponsorship of us by, these other parties.

PROSPECTUS SUMMARY

This summary highlights selected information contained elsewhere in this prospectus. Because this is only a summary, it does not contain all the information that may be important to you. You should read the entire prospectus carefully, especially the sections titled "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations," as well as our consolidated financial statements and related notes included elsewhere in this prospectus, before deciding to invest in our common stock. In this prospectus, unless the context requires otherwise, references to "PROCEPT," the "Company," "we," "us," and "our," refer to PROCEPT BioRobotics Corporation.

Our Company

We are a commercial-stage surgical robotics company focused on advancing patient care by developing transformative solutions in urology. We develop, manufacture and sell the AquaBeam Robotic System, an advanced, image-guided, surgical robotic system for use in minimally-invasive urologic surgery with an initial focus on treating benign prostatic hyperplasia, or BPH. BPH is the most common prostate disease and impacts approximately 40 million men in the United States. Our proprietary AquaBeam Robotic System employs a single-use disposable handpiece to deliver our Aquablation therapy, which combines real-time, multidimensional imaging, personalized treatment planning, automated robotics and heat-free waterjet ablation for targeted and rapid removal of prostate tissue. We believe that Aquablation therapy represents a paradigm shift in the surgical treatment of BPH by addressing compromises associated with alternative surgical interventions. We designed Aquablation therapy to deliver effective, safe and durable outcomes for males suffering from lower urinary tract symptoms, or LUTS, due to BPH that are independent of prostate size and shape or surgeon experience. We have developed a significant and growing body of clinical evidence, which includes nine clinical studies and over 100 peer-reviewed publications, supporting the benefits and clinical advantages of Aquablation therapy. As of June 30, 2021, we had an installed base of 124 AquaBeam Robotic Systems, and Aquablation therapy has been utilized in the treatment of more than 5,500 patients whose prostates have ranged in size from less than 30 ml to over 300 ml.

The main goal of BPH treatment is to alleviate the symptoms associated with the disease and improve the patient's quality of life. While drug therapy is typically a first line treatment option, limited efficacy and negative side effects contribute to low compliance, high failure rates and drop outs. On the other hand, surgical intervention is proven to provide effective and durable symptom relief compared to drug therapy, but the use of surgery is significantly underpenetrated, largely due to the compromise patients must make between the incidence of irreversible side effects associated with alternative resective surgical interventions, where obstructive tissue is removed at the time of intervention, or the lower rates of efficacy and durability associated with non-resective surgical interventions, where obstructive tissue is not removed, but rather the prostatic urethra is re-shaped. In addition, most alternative surgical interventions are limited by prostate size and shape, with no single procedure capable of effectively addressing the full range of prostate anatomies regardless of surgeon experience level.

We began developing our proprietary AquaBeam Robotic System in 2009 to address many of the shortcomings of alternative surgical interventions by delivering our Aquablation therapy, the first and only image-guided robotic therapy for the treatment of BPH. The AquaBeam Robotic System combines real-time image guidance, personalized treatment planning, automated robotic execution and heat-free waterjet ablation. We believe our Aquablation therapy addresses the compromise between safety and efficacy of alternative surgical interventions, providing the following unique combination of benefits:

- ***Significant and durable symptom relief***. Aquablation therapy has demonstrated significant and long-lasting levels of symptom relief similar to those of alternative resective procedures.
- ***Favorable safety profile***. Aquablation therapy has demonstrated low rates of irreversible complications, including urinary incontinence, erectile dysfunction and ejaculatory dysfunction, compared to published rates observed for other resective surgeries.
- ***Outcomes independent of prostate size and shape and surgeon experience***. We designed Aquablation therapy to deliver outcomes that are effective, safe and durable for males suffering from LUTS due to BPH across all prostate sizes and shapes. Compared to other resective procedures, we believe Aquablation

therapy is relatively simple to learn, enabled by the intuitive user interface of the conformal planning unit, or CPU, and automated robotic resection, and delivers outcomes that are independent of surgeon experience.

- ***Personalized treatment planning and improved decision-making***. Aquablation therapy combines cystoscopic visualization, which uses a camera attached to a hollow tube, along with ultrasound imaging and advanced planning software to provide the surgeon with a multidimensional view of the treatment area and enable personalized treatment planning for the patient's unique anatomy, improved decision-making and real-time monitoring during the procedure.

- ***Targeted and controlled resection with consistent resection times***. Aquablation therapy utilizes automated robotic resection to remove prostate tissue using a precise, heat-free waterjet. These features enable targeted and controlled tissue removal with rapid resection times that are highly consistent across prostate sizes and shapes and surgeon experience.

In the United States, we currently sell our products to hospitals primarily through our direct sales organization. These hospitals in turn bill various third-party payors, such as commercial payors and government agencies, for treatment payment of each patient. Effective in 2021, all local Medicare Administrative Contractors, or MACs, which represent 100% of eligible Medicare patients, issued final positive local coverage determinations to provide Medicare beneficiaries with access to Aquablation therapy in all 50 states. Our strong body of clinical evidence and support from key societies, supplemented by the momentum from Medicare coverage, have led to favorable coverage decisions from several large commercial payors, including Anthem, BlueCross – Massachusetts, Emblem Health, Health Care Service Corp, and Humana. We plan to leverage these recent successes in our active discussions with commercial payors to establish additional positive national and regional coverage policies. Outside of the United States, we have ongoing efforts in key markets to expand established coverage and improve payment which we will believe will expand patient access to Aquablation therapy. We sell our products outside of the United States through both our direct sales organization and, in certain regions, our network of distribution partners.

We generated revenue of $7.7 million and incurred a net loss of $53.0 million for the year ended December 31, 2020, compared to revenue of $6.2 million and a net loss of $42.0 million for the year ended December 31, 2019. We generated revenue of $15.7 million and incurred a net loss of $27.4 million for the six months ended June 30, 2021, compared to revenue of $2.4 million and a net loss of $25.7 million for the six months ended June 30, 2020. As of June 30, 2021, we had an accumulated deficit of $229.1 million.

Market Overview

BPH refers to the non-malignant enlargement of the prostate gland, a small gland in the male reproductive system, and in the United States is the number one reason men visit a urologist. BPH is estimated to occur in more than 50% of men in their 50s, growing to 70% of men in their 60s, and is the fourth most common diagnosed disease in men above 50 years old, ranking behind coronary artery disease, hypertension and type 2 diabetes. BPH often results in uncomfortable LUTS, which can have a significant impact on quality of life. If left untreated, BPH may eventually lead to more serious complications.

In the United States, we estimate that approximately 40 million men are impacted by symptoms of BPH, with aging demographics expected to drive future growth. Over the next ten years, we expect that the number of men over 65 years old in the United States will double and include a corresponding increase in the number of men with enlarged prostates. Of these men, approximately 12 million are being managed by a physician for symptoms related to their disease. While drug therapy is typically a first line treatment option, limited efficacy and negative side effects contribute to low patient compliance, high failure rates and drop outs. On the other hand, surgical intervention is proven to provide effective and durable symptom relief compared to drug therapy, but the use of surgery is significantly underpenetrated largely due to the compromise patients must make between (1) the incidence of irreversible side effects associated with current resective surgical interventions, or (2) the lower rates of efficacy and durability associated with non-resective surgical interventions. Our total addressable patient population in the United States includes approximately 8.2 million patients, comprised of 6.7 million receiving drug therapy, 1.1 million who have tried but failed drug therapy and 400,000 undergoing surgical intervention each year. Based on the average selling price of our single-use handpiece, we estimate that our total addressable market opportunity is in

excess of $20 billion in the United States. The global incidence of BPH among men over 50 years old is similar to that of the United States, representing a significant incremental market opportunity outside of the United States.

BPH Treatment Options and Their Limitations

The main goal of BPH treatment is to alleviate the symptoms associated with the disease and improve the patient's quality of life. As such, a patient's recommended course of treatment is largely based on the patient's degree of symptoms, typically measured using validated scoring systems such as International Prostate Symptom Score, or IPSS. Patients with mild symptoms who have not developed other complications of BPH may choose watchful waiting, meaning that before proceeding with active treatment, the physician and patient wait to see if symptoms get worse or if new symptoms develop. Patients who choose this approach are generally advised to implement lifestyle changes and return for yearly visits with their physician to determine if symptoms are changing. For most men, the prostate will continue to grow and symptoms will worsen. As symptoms become more bothersome, active treatment may be recommended. The two primary categories of active treatment for BPH are drug therapy and surgical intervention.

- ***Drug therapy***. Drug therapy is often the first step in actively treating mild-to-moderate symptoms of BPH. While there is no pharmacological cure for BPH, drugs may be used to manage symptoms. Available drugs address symptoms by either shrinking (5-alpha reductase inhibitors) the prostate or relaxing (alpha blockers) muscles surrounding the prostate. In some instances, patients may be prescribed a combination of both medications. Most men with BPH who start drug therapy will need to continue it indefinitely in order to relieve symptoms, unless they choose to undergo surgical intervention. While drug therapy can provide relief for some men, two out of three patients are not satisfied with the effectiveness of their medication. In general, drug therapy provides IPSS reduction of approximately five points and flow improvement of up to 2.5ml per second. Drug therapy is also often associated with negative side effects, including headaches, dizziness, nausea, erectile dysfunction, ejaculatory dysfunction, loss of libido, cardiac failure and dementia. These side effects often contribute to poor treatment compliance, with drug therapy failing in up to 30% of men within two years. Furthermore, drug therapy may be costly, particularly in light of limited symptom relief. For example, a recent study has shown that payor costs for branded combination drug therapy over a two-year period was the least cost-effective of all treatment options included in the study, as drug therapy requires extended use and yields the least symptom relief.

- ***Surgical intervention***. Surgical intervention is recommended for patients who have failed or are unwilling to consider drug therapy, or are suffering from complications due to their BPH. Although more invasive than drug therapy, surgical intervention generally provides more significant, longer-lasting symptom relief. There are two categories of surgical intervention, resective, where obstructive tissue is removed at the time of intervention, and non-resective, where obstructive tissue is not removed, but rather the prostatic urethra is re-shaped. We estimate that approximately 400,000 BPH surgeries were performed in the United States in 2019, growing at a compounded annual growth rate, or CAGR, of 11% since 2016. We believe that growth in the use of surgical intervention over the past several years is due to the introduction of new technologies that better balance the compromise between efficacy and safety as well as growing awareness of surgical intervention as an effective way to manage BPH symptoms compared to drug therapy.

Two factors that surgeons and patients commonly consider when evaluating surgical intervention are efficacy and safety. Efficacy is generally measured by symptom relief as well as durability of relief, and safety by the occurrence of irreversible complications such as urinary incontinence, erectile dysfunction and ejaculatory dysfunction. We believe that alternative surgical interventions for BPH require patients to compromise between efficacy and safety. Alternative interventions either provide significant symptom relief with a heightened risk of irreversible complications or a lower risk of complications with significantly less symptom relief. In addition, most alternative surgical interventions are limited by prostate size and shape, with no single procedure capable of effectively addressing the full range of prostate anatomies regardless of surgeon experience level. We believe that the compromise and limitations associated with alternative surgical interventions have contributed to the relatively low penetration rate of surgical intervention.

Our Solution

We have developed the AquaBeam Robotic System, an advanced, image-guided, surgical robotic system for use in minimally invasive urologic surgery. Our proprietary AquaBeam Robotic System delivers our Aquablation therapy, the first and only image-guided robotic therapy for the treatment of BPH. We market the AquaBeam Robotic System in the United States pursuant to FDA 510(k) clearance that we received in March 2021. Our label indication provides that the AquaBeam Robotic System is intended for the resection and removal of prostate tissue in males suffering from LUTS due to BPH. The most common side effects observed for Aquablation therapy are mild and transient and may include mild pain or difficulty when urinating, discomfort in the pelvis, blood in the urine, inability to empty the bladder or a frequent or urgent need to urinate, and bladder or urinary tract infection. During our clinical studies, we documented a rate of incontinence between 0%-2%, ejaculatory dysfunction between 6.9%-24.6%, and a peri-operative transfusion rate between 0.9%-5.9%. Since then, a number of publications have reported on transfusion rates. A key study published in April 2021 of 2,089 men undergoing Aquablation therapy with prostates ranging in size from 20 ml to 363 ml observed a transfusion rate of only 0.8%.

The AquaBeam Robotic System combines the following highly differentiated features that are intended to deliver effective, safe and durable outcomes for males suffering from LUTS due to BPH that are consistent across all prostate sizes and shapes and independent of surgeon experience:

- ***Real-time image guidance***. Intraoperative ultrasound imaging combined with cystoscopic visualization, which provides a multidimensional view of the treatment area, enabling improved decision-making and real-time treatment monitoring.
- ***Personalized treatment planning***. Using ultrasound imaging integrated with advanced planning software, the surgeon is able to map the treatment contour that precisely targets the resection area, personalizing the optimal tissue removal plan based on each patient's unique anatomy.
- ***Automated robotic execution***. Once the treatment plan is finalized, the robot automatically executes the plan, guiding the precisely calibrated waterjet with speed and accuracy while the surgeon monitors.
- ***Heat-free waterjet resection***. Utilizing the unique power of a pulsating waterjet near the speed of sound, Aquablation therapy removes prostatic tissue with a heat-free waterjet, minimizing the risk of complications arising from prolonged thermal injury.

Our currently marketed AquaBeam Robotic System is classified as a Class II medical device by the FDA. Class II devices are subject to the FDA's General Controls, and special controls as deemed necessary by the FDA to ensure the safety and effectiveness of the device. These special controls can include performance standards, post-market surveillance, patient registries and FDA guidance documents.

Our Success Factors

We believe the continued growth of our company will be driven by the following success factors:

- ***First and only image-guided, heat-free robotic therapy for BPH designed to address the compromise between safety and efficacy of alternative surgical interventions.*** We believe that alternative surgical interventions for BPH have a number of shortcomings which require patients to compromise between safety and efficacy, either providing significant symptom relief but with a heightened risk of irreversible complications or a lower risk of complications but with significantly less symptom relief. We believe that Aquablation therapy represents a paradigm shift in the surgical treatment of BPH by addressing this compromise. We designed Aquablation therapy to deliver effective, safe and durable outcomes for males suffering from LUTS due to BPH that are consistent across all prostate sizes and shapes and independent of surgeon experience.
- ***Large, growing and underpenetrated market opportunity.*** Based on the average selling price of our single-use handpiece and the approximately 8.2 million BPH patients in the United States, we estimate that our total U.S. addressable market opportunity is in excess of $20 billion. The global incidence of BPH among

men over 50 years old is similar to that of the United States, representing a significant incremental market opportunity outside of the United States.

- ***Significant and growing body of clinical evidence and strong support from key opinion leaders, or KOLs, resulting in the inclusion of Aquablation therapy into societal guidelines and rapid expansion of positive reimbursement coverage policies.*** Our robust clinical evidence includes nine clinical studies that we sponsored and enrolled between 2013 and 2018, as well as more than 100 peer-reviewed publications, and demonstrates the efficacy, safety and durability of Aquablation therapy, consistent across all prostate sizes and shapes and independent of surgeon experience. Our employees participated in protocol design, data management, monitoring, and statistical analysis in all nine clinical studies and results were provided to authors for publication upon request. Additionally, we have established strong relationships with KOLs within the urology community and collaborated with key urological societies in global markets. This support has been instrumental in facilitating broader acceptance and adoption of Aquablation therapy.

- ***Compelling value proposition and benefits to hospitals, surgeons and patients.*** We designed our AquaBeam Robotic System to enable consistent and reproducible BPH surgery outcomes that are independent of surgeon experience and require minimal training. Furthermore, the AquaBeam Robotic System is highly mobile and compact, requiring no retrofitting of the operating room, and we believe is competitively priced compared to other robotic systems and capital equipment devices. For patients, Aquablation therapy offers significant and durable symptom relief with an attractive safety profile.

- ***Recurring revenue model.*** We generate revenue primarily from hospitals making capital purchases of our AquaBeam Robotic System and purchasing our single-use handpieces for individual patient use. We also generate revenue by providing post-warranty service for the AquaBeam Robotic System. We believe our business model of selling capital equipment that generates corresponding disposables utilization and post-warranty service contracts provides a path to predictable, recurring revenue.

- ***Broad research and development capabilities and a robust intellectual property portfolio.*** We have invested in establishing strong research and development capabilities for over a decade, including in surgical robotics and imaging-enabled surgery as well as integrating hardware and software to create an exceptional user and patient experience. We believe our focus on this experience will allow us to continue to bring new upgrades, capabilities and products to market, allowing us to innovate and maintain our competitive positioning, and that our intellectual property and know-how present a significant barrier to entry for our competitors.

- ***Proven leadership team and board members with deep industry experience.*** We are led by a highly experienced management team and board with a successful track record of building businesses by identifying and providing solutions for underserved markets in the medical device industry.

Our Growth Strategy

Our mission is to establish Aquablation therapy as the surgical standard of care for BPH. The key elements of our growth strategy are:

- ***Grow our installed base of AquaBeam Robotic Systems by driving adoption of Aquablation therapy among urologists.*** In the United States, we are initially focused on driving adoption of Aquablation therapy among urologists that perform hospital-based resective BPH surgery. We are initially targeting 860 high-volume hospitals that we estimate perform, on average, more than 200 resective procedures annually and account for approximately 70% of all hospital-based resective procedures. We also intend to increase awareness of Aquablation therapy by continuing to publish clinical data in various industry and scientific journals, present our clinical data at various industry conferences and sponsor peer-to-peer education programs and proctorships.

- ***Increase system utilization by establishing Aquablation therapy as the surgical treatment of choice for BPH.*** Once we place a system within a hospital, our objective is to establish Aquablation therapy as the surgical treatment of choice for BPH. Within each hospital, we are initially focused on targeting urologists

who perform medium-to-high volumes of resective procedures and converting their resective cases to Aquablation therapy. Over time, we intend to leverage our relationships with urologists to drive utilization of Aquablation therapy beyond the current surgical market.

- ***Continue to broaden private payor coverage.*** We plan to leverage our recent successes, including the addition of Aquablation therapy to American Urological Association clinical guidelines in May 2019 and the final positive local coverage determinations by all local MACs to provide Medicare beneficiaries with access to Aquablation therapy in all 50 states, in our active discussions with private payors to establish additional positive national and regional coverage policies. We believe that additional private payor coverage will contribute to increasing utilization of our system over time. Outside of the United States, we have ongoing efforts in key markets to expand established coverage and further improve patient access to Aquablation therapy.
- ***Build upon our strong base of clinical evidence.*** We are committed to continuing to build upon our foundation of clinical evidence, which we believe will help drive increased awareness and adoption of our products. We also plan to further build our base of clinical evidence by supporting new clinical studies intended to support commercial, regulatory and reimbursement efforts.
- ***Invest in research and development to drive continuous improvements and innovation.*** We are currently developing additional and next generation technologies to support and improve Aquablation therapy to further satisfy the evolving needs of surgeons and their patients as well as to further enhance the usability and scalability of the AquaBeam Robotic System. We also plan to leverage our treatment data and software development capabilities to integrate artificial intelligence and machine-learning to enable computer-assisted anatomy recognition and improved treatment planning and personalization.
- ***Drive increased awareness of Aquablation therapy beyond the urology community.*** As we expand our network of urologists and grow our installed base, we intend to increase awareness and brand recognition of Aquablation therapy beyond urologists, primarily among primary care physicians who manage BPH patients. To achieve this objective, we will invest in marketing initiatives directed at primary care physicians in order to optimize referral pathways and expand networks for BPH patients to visit a urologist.
- ***Further penetrate and expand into existing and new international markets.*** While the United States remains our primary focus in the near-term, we are growing our existing presence in the large European markets by continuing to promote the clinical benefits of Aquablation therapy, supporting investments in clinical studies to improve coverage and reimbursement and fostering relationships with KOLs. In addition, we intend to expand our reach to selected new markets in the Asia-Pacific region over time.

Summary Risk Factors

We are subject to a number of risks, including risks that may prevent us from achieving our business objectives or that may adversely affect our business, financial condition and results of operations. You should carefully consider the risks discussed in the section titled “Risk Factors,” including the following risks, before investing in our common stock:

- We are an early-stage company with a history of significant net losses, we expect to continue to incur operating losses for the foreseeable future and we may not be able to achieve or sustain profitability.
- Our revenue is primarily generated from sales of our AquaBeam Robotic System and the accompanying single-use disposable handpieces, and we are therefore highly dependent on the success of those products.
- Our quarterly and annual operating results may fluctuate significantly and may not fully reflect the underlying performance of our business. This makes our future operating results difficult to predict and could cause our operating results to fall below expectations or any guidance we may provide.
- Even if this offering is successful, we may need additional funding beyond the proceeds of this offering to finance our planned operations, and may not be able to raise capital when needed, which could force us to

delay, reduce or eliminate one or more of our product development programs and future commercialization efforts.

- The commercial success of our AquaBeam Robotic System and Aquablation therapy will depend upon the degree of market acceptance of our products among hospitals, surgeons and patients.
- We have limited experience in training and marketing and selling our products and we may provide inadequate training, fail to increase our sales and marketing capabilities or fail to develop and maintain broad brand awareness in a cost-effective manner.
- We face competition from many sources, including larger companies, and we may be unable to compete successfully.
- We have limited experience manufacturing our products in large-scale commercial quantities, and we face a number of manufacturing risks that may adversely affect our manufacturing abilities which could delay, prevent or impair our growth.
- We depend upon third-party suppliers, including contract manufacturers and single source suppliers, making us vulnerable to supply shortages and price fluctuations that could negatively affect our business, financial condition and results of operations.
- If we receive a significant number of warranty claims or our AquaBeam Robotic Systems require significant amounts of service after sale, our operating expenses may substantially increase and our business and financial results will be adversely affected.
- Our business, financial condition, results of operations and growth have been adversely impacted by the effects of the COVID-19 pandemic and may continue to be adversely impacted.
- We may encounter difficulties in managing our growth, which could disrupt our operations.
- Our internal computer systems, or those used by our contractors or consultants, may fail or suffer security breaches, and such failure could negatively affect our business, financial condition and results of operations.
- The sizes of the addressable markets for our AquaBeam Robotic System have not been established with precision and our potential market opportunity may be smaller than we estimate and may decline.
- Until we are able to achieve broader market acceptance of our AquaBeam Robotic System and Aquablation therapy, we may face risks associated with a more concentrated customer base.
- We are highly dependent on our senior management team and key personnel, and our business could be harmed if we are unable to attract and retain personnel necessary for our success.
- Our products and operations are subject to extensive government regulation and oversight both in the United States and abroad, and our failure to comply with applicable requirements could harm our business.
- If we are unable to adequately protect our intellectual property rights, or if we are accused of infringing on the intellectual property rights of others, our competitive position could be harmed or we could be required to incur significant expenses to enforce or defend our rights.
- We have identified a material weakness in our internal control over financial reporting and may identify additional material weaknesses in the future or otherwise fail to maintain effective internal control over financial reporting, which may result in material misstatements of our financial statements or cause us to fail to meet our periodic reporting obligations.
- If you purchase our common stock in this offering, you will incur immediate and substantial dilution.

Our business also faces a number of other challenges and risks discussed throughout this prospectus. You should read the entire prospectus carefully, including the sections titled "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations," and our consolidated financial statements and related notes included elsewhere in this prospectus, before deciding to invest in our common stock.

Our Corporate Information

We were incorporated in Delaware in April 2021 when our predecessor, PROCEPT BioRobotics Corporation, a California corporation, merged with and into us, and we continued as the surviving entity.

Our principal executive office is located at 900 Island Drive, Redwood City, CA, 94065 and our telephone number is (650) 232-7200. Our website address is *www.procept-biorobotics.com*. The information contained on, or that can be accessed through, our website is not incorporated by reference into, and is not a part of, this prospectus or the registration statement of which this prospectus forms a part. We have included our website in this prospectus solely as an inactive textual reference. Investors should not rely on any such information in deciding whether to purchase our common stock.

Implications of Being an Emerging Growth Company and a Smaller Reporting Company

We qualify as an "emerging growth company" as defined in Section 2(a) of the Securities Act of 1933, as amended, or the Securities Act, as modified by the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable, in general, to public companies that are not emerging growth companies. These provisions include:

- the option to present only two years of audited financial statements and only two years of related Management's Discussion and Analysis of Financial Condition and Results of Operations in this prospectus;
- not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002;
- reduced disclosure obligations regarding executive compensation in our periodic reports, proxy statements and registration statements; and
- exemptions from the requirements of holding nonbinding, advisory stockholder votes on executive compensation or on any golden parachute payments not previously approved.

We will remain an emerging growth company until the earliest to occur of: (i) the last day of the first fiscal year in which our annual gross revenue exceeds $1.07 billion; (ii) the date that we become a "large accelerated filer," with at least $700 million of equity securities held by non-affiliates as of the end of the second quarter of that fiscal year; (iii) the date on which we have issued, in any three-year period, more than $1.0 billion in non-convertible debt securities; and (iv) the last day of the fiscal year ending after the fifth anniversary of the completion of this offering.

We have elected to take advantage of certain of the reduced disclosure obligations in the registration statement of which this prospectus is a part and may elect to take advantage of other reduced reporting requirements in future filings with the U.S. Securities and Exchange Commission, or the SEC. As a result, the information that we provide may be different than the information you receive from other public companies in which you hold stock.

Emerging growth companies can also take advantage of the extended transition period provided in Section 13(a) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, for complying with new or revised accounting standards. In other words, an emerging growth company can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. As a result of these elections, some investors may find our common stock less attractive than they would have otherwise. The result may be a less active trading market for our common stock, and the price of our common stock may become more volatile.

We have elected to avail ourselves of this exemption and, therefore, for new or revised accounting standards applicable to public companies, we will be subject to an extended transition period until those standards would otherwise apply to private companies. As a result, our consolidated financial statements may not be comparable to companies that comply with new or revised accounting pronouncements as of public company effective dates.

We are also a "smaller reporting company" as defined in the Exchange Act. We may continue to be a smaller reporting company even after we are no longer an emerging growth company. We may take advantage of certain of the scaled disclosures available to smaller reporting companies and will be able to take advantage of these scaled disclosures for so long as our voting and non-voting common stock held by non-affiliates is less than $250.0 million measured on the last business day of our second fiscal quarter, or our annual revenue is less than $100.0 million during the most recently completed fiscal year and our voting and non-voting common stock held by non-affiliates is less than $700.0 million measured on the last business day of our second fiscal quarter.

The Offering

Common stock offered by us	shares.
Option to purchase additional shares	We have granted the underwriters an option exercisable for a period of 30 days to purchase up to additional shares of our common stock at the public offering price, less the underwriting discounts and commissions.
Common stock to be outstanding immediately after this offering	shares (or shares if the underwriters exercise their option to purchase additional shares of common stock in full).
Use of proceeds	We estimate that the net proceeds to us from this offering will be approximately $ million, or approximately $ million if the underwriters exercise their option to purchase additional shares in full, based upon an assumed initial public offering price of $ per share, which is the midpoint of the estimated price range set forth on the cover page of this prospectus, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. We currently intend to use the net proceeds from this offering, together with our existing cash and cash equivalents, to hire additional sales and marketing personnel and expand marketing programs both in the United States and in Europe, to fund product development and research and development activities and the remainder for working capital and other general corporate purposes. See the section titled "Use of Proceeds."
Risk factors	Investing in our common stock involves a high degree of risk. See the section titled "Risk Factors" for a discussion of factors you should carefully consider before investing in our common stock.
Proposed Nasdaq Global Market symbol	"PRCT"

The number of shares of common stock to be outstanding after this offering is based on 169,640,327 shares of common stock outstanding as of June 30, 2021 (including the conversion of all outstanding shares of our redeemable convertible preferred stock and the exercise of outstanding warrants into 142,127,985 shares of our common stock immediately prior to the completion of this offering), and excludes the following:

- 31,451,996 shares of our common stock issuable upon the exercise of options outstanding as of June 30, 2021, with a weighted-average exercise price of $0.98 per share;
- 930,000 shares of our common stock issuable upon the exercise of options granted after June 30, 2021, with a weighted-average exercise price of $1.83 per share;
- 5,440,298 shares of our common stock that remain available for issuance under our Amended and Restated 2008 Stock Plan, or 2008 Plan, as of June 30, 2021;
- shares of our common stock reserved for future issuance under our Plan, or 2021 Plan, which will become effective in connection with this offering (and which excludes any potential annual evergreen increases pursuant to the terms of the 2021 Plan); and
- shares of our common stock reserved for future issuance under our 2021 Employee Stock Purchase Plan, or ESPP, which will become effective in connection with this offering (and which excludes any potential annual evergreen increases pursuant to the terms of the ESPP).

Unless otherwise indicated, this prospectus reflects and assumes the following:

- a -for- reverse stock split of our common stock, which was effected on , 2021;

- the issuance of 340,681 shares of Series E redeemable convertible preferred stock upon the exercise for cash, at an exercise price of $2.89 per share, of warrants to purchase our redeemable convertible preferred stock outstanding as of June 30, 2021, prior to the warrants' expiration upon the completion of this offering;
- the conversion of all outstanding shares of our redeemable convertible preferred stock into shares of our common stock immediately prior to the completion of this offering;
- the adoption, filing and effectiveness of our amended and restated certificate of incorporation and the adoption and effectiveness of our amended and restated bylaws immediately after the completion of this offering;
- no exercise of the outstanding options referred to above; and
- no exercise by the underwriters of their option to purchase additional shares of our common stock.

Summary Consolidated Financial Data

The following tables summarize our historical consolidated financial data for the periods and as of the dates indicated. We derived our summary consolidated statements of operations data for the years ended December 31, 2019 and 2020 from our audited consolidated financial statements included elsewhere in this prospectus. We derived our summary consolidated statement of operations data for the six months ended June 30, 2020 and 2021 and our summary consolidated balance sheet data as of June 30, 2021 from our unaudited consolidated interim financial statements included elsewhere in this prospectus. In our opinion, our unaudited consolidated interim financial statements have been prepared on a basis consistent with our audited consolidated financial statements and contain all adjustments, consisting only of normal and recurring adjustments, necessary for a fair presentation of such interim financial statements. Our historical results are not necessarily indicative of the results to be expected in the future and our results for the six months ended June 30, 2021 are not necessarily indicative of the results that may be expected for the year ending December 31, 2021 or any other interim periods or any future year or period. You should read the following information in conjunction with the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and the related notes included elsewhere in this prospectus.

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
	(in thousands, except share and per share data)			
			(unaudited)	
Consolidated Statements of Operations Data:				
Revenue	$ 6,169	$ 7,717	$ 2,389	$ 15,668
Cost of sales	8,054	8,972	4,082	8,558
Gross profit	(1,885)	(1,255)	(1,693)	7,110
Gross margin	*(31)%*	*(16)%*	*(71)%*	*45 %*
Operating expenses:				
Research and development	13,147	16,275	7,839	8,998
Selling, general and administrative	28,518	30,272	14,084	22,648
Total operating expenses	41,665	46,547	21,923	31,646
Loss from operations	(43,550)	(47,802)	(23,616)	(24,536)
Interest expense	(724)	(5,261)	(2,103)	(2,900)
Interest and other income, net	2,299	44	(13)	34
Net loss	$ (41,975)	$ (53,019)	$ (25,732)	$ (27,402)
Net loss per share, basic and diluted[1]	$ (4.00)	$ (3.05)	$ (1.92)	$ (1.11)
Weighted-average common shares used to compute net loss per share attributable to common shareholders, basic and diluted[1]	10,486	17,398	13,396	24,775
Pro forma (unaudited):				
Net loss per share, basic and diluted[2]		$ (0.33)		$ (0.16)
Weighted-average common shares used to compute pro forma net loss per share attributable to common shareholders, basic and diluted		159,526		166,903

(1) See Note 2 to our consolidated financial statements included elsewhere in this prospectus for an explanation of the method used to calculate our historical basic and diluted net loss per share.

(2) The unaudited pro forma basic and diluted net loss per share for the year ended December 31, 2020 and for the six months ended June 30, 2021 has been prepared to give effect to an adjustment to the denominator in the pro forma basic and diluted net loss per share calculation for the conversion of 141,787,304 outstanding shares of our redeemable convertible preferred stock as of June 30, 2021 into an aggregate of 141,787,304 shares of common stock and the exercise of outstanding warrants as of June 30, 2021 for 340,681 shares of redeemable convertible preferred stock at a cash exercise price of $2.89 per share, and subsequent conversion into 340,681 shares of common stock.

	As of June 30, 2021		
	Actual	Pro Forma[1]	Pro Forma As Adjusted[2][3]
	(in thousands) (unaudited)		
Consolidated Balance Sheet Data:			
Cash and cash equivalents	$ 159,224	$ 160,209	$
Redeemable convertible preferred stock warrant liability	129	—	
Working capital[4]	162,760	163,874	
Total assets	190,577	191,562	
Total liabilities	68,319	68,190	
Redeemable convertible preferred stock	328,564	—	
Total stockholders' (deficit) equity	(206,306)	123,372	

(1) The pro forma column in the consolidated balance sheet data table above gives effect to the conversion of 141,787,304 outstanding shares of our redeemable convertible preferred stock as of June 30, 2021 into an aggregate of 141,787,304 shares of common stock, and the exercise of outstanding warrants as of June 30, 2021 for 340,681 shares of redeemable convertible preferred stock at a cash exercise price of $2.89 per share, and subsequent conversion into 340,681 shares of common stock, and the resultant reclassification of our redeemable convertible preferred stock warrant liability to additional paid-in capital, a component of stockholders' (deficit) equity, all of which will occur immediately prior to the completion of this offering.

(2) The pro forma as adjusted column in the consolidated balance sheet data table above gives effect to (i) the pro forma adjustments described in footnote (1) above and (ii) the sale and issuance by us of shares of common stock in this offering at the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

(3) Each $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the pro forma as adjusted amount of each of our cash and cash equivalents, working capital, total assets and total stockholders' equity by approximately $, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase or decrease of 1.0 million shares in the number of shares offered by us at the assumed initial public offering price would increase or decrease, as applicable, each of our cash and cash equivalents, working capital, total assets and total stockholders' equity by approximately $, assuming the shares of our common stock offered by this prospectus are sold at the assumed initial public offering price of $ per share and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. The pro forma as adjusted information discussed above is illustrative only and will be adjusted based on the actual initial public offering price, the number of shares we sell and other terms of this offering that will be determined at pricing.

(4) We define working capital as current assets less current liabilities. See our consolidated financial statements and related notes included elsewhere in this prospectus for further detail regarding our current assets and current liabilities.

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should consider and read carefully all of the risks and uncertainties described below, as well as other information included in this prospectus and the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations," and our consolidated financial statements and related notes included elsewhere in this prospectus, before making an investment decision. The risks described below are not the only ones facing us. The occurrence of any of the following risks or additional risks and uncertainties not presently known to us or that we currently believe to be immaterial could materially and adversely affect our business, financial condition or results of operations. In such case, the trading price of our common stock could decline, and you may lose all or part of your investment. This prospectus also contains forward-looking statements and estimates that involve risks and uncertainties. Our actual results could differ materially from those anticipated in the forward-looking statements as a result of specific factors, including the risks and uncertainties described below.

Risks Related to Our Limited Operating History, Financial Condition and Capital Requirements

We are an early-stage company with a history of significant net losses, we expect to continue to incur operating losses for the foreseeable future and we may not be able to achieve or sustain profitability.

We have incurred significant net losses in each reporting period since our inception. For the years ended December 31, 2019 and 2020, we had a net loss of $42.0 million and $53.0 million, respectively. For the six months ended June 30, 2020 and 2021, we had a net loss of $25.7 million and $27.4 million, respectively. We expect to continue to incur additional losses in the future. As of June 30, 2021, we had an accumulated deficit of $229.1 million. To date, we have financed our operations primarily through net proceeds from the sale of our redeemable convertible preferred stock in private placements, indebtedness, including our loan and security agreement, and, to a lesser extent, product revenue from sales of our AquaBeam Robotic System and single-use disposable handpieces. The losses and accumulated deficit have primarily been due to the substantial investments we have made to develop our products, costs related to our sales and marketing efforts, including costs related to clinical and regulatory initiatives to obtain marketing approval, and infrastructure improvements.

We may also encounter unforeseen expenses, difficulties, complications, delays and other known and unknown factors and risks frequently experienced by early-stage medical technology companies in rapidly evolving fields. In addition, as a public company, we will incur significant legal, accounting and other expenses that we did not incur as a private company. Accordingly, we expect to continue to incur significant operating losses for the foreseeable future and we cannot assure you that we will achieve profitability in the future or that, if we do become profitable, we will sustain profitability. Our failure to achieve and sustain profitability in the future will make it more difficult to finance our capital requirements needed to operate our business and accomplish our strategic objectives, which would have a material adverse effect on our business, financial condition and results of operations and cause the market price of our common stock to decline.

Our revenue is primarily generated from sales of our AquaBeam Robotic System and the accompanying single-use disposable handpieces, and we are therefore highly dependent on the success of those products.

To date, substantially all of our revenue has been derived, and we expect it to continue to be substantially derived, from sales of our AquaBeam Robotic System and its accompanying single-use disposable handpieces. Our products deliver our Aquablation therapy, the first and only image-guided, heat-free robotic therapy for BPH. We began commercializing our products in the United States in 2017 and physician awareness of, and experience with, our products has been and is currently limited. As a result, our products have limited product and brand recognition within the medical industry for the treatment of BPH. We do not have a long history operating as a commercial company, and the novelty of our products, together with our limited commercialization experience, makes it difficult to evaluate our current business and predict our future prospects with precision. These factors also make it difficult for us to forecast our financial performance and future growth, and such forecasts are subject to a number of uncertainties, including those outside of our control.

Our quarterly and annual operating results may fluctuate significantly and may not fully reflect the underlying performance of our business. This makes our future operating results difficult to predict and could cause our operating results to fall below expectations or any guidance we may provide.

Our quarterly and annual results of operations, including our revenue, profitability and cash flow, may vary significantly in the future, and period-to-period comparisons of our operating results may not be meaningful. Accordingly, the results of any one quarter or period should not be relied upon as an indication of future performance. Our quarterly and annual operating results may fluctuate significantly as a result of a variety of factors, many of which are outside our control and, as a result, may not fully reflect the underlying performance of our business. Such fluctuations in quarterly and annual operating results may decrease the value of our common stock. Because our quarterly operating results may fluctuate, period-to-period comparisons may not be the best indication of the underlying results of our business and should only be relied upon as one factor in determining how our business is performing. These fluctuations may occur due to a variety of factors, many of which are outside of our control, including, but not limited to:

- the level of surgeon and hospital adoption and demand for our products and Aquablation therapy;
- changes in reimbursement rates by government or commercial payors;
- positive or negative coverage in the media or clinical publications, or changes in public, patient and/or physician perception, of our products or competing products and treatments, including our brand reputation;
- the degree of competition in our industry and any change in the competitive landscape, including consolidation among competitors or future partners;
- any safety, reliability or effectiveness concerns that arise regarding our products or other procedures to treat BPH;
- unanticipated pricing pressures in connection with the sale of our products and downward pressure on healthcare costs in general;
- the effectiveness of our sales and marketing efforts, including our ability to deploy a sufficient number of qualified sales representatives to sell and market our products;
- the timing of customer orders or medical procedures using our products and the number of available selling days in any quarterly period, which can be impacted by holidays, the mix of products sold and the geographic mix of where products are sold;
- unanticipated delays in product development or product launches;
- the cost of manufacturing our products, which may vary depending on the quantity of production and the terms of our agreements with third-party suppliers;
- our ability to raise additional capital on acceptable terms, or at all, if needed to support the commercialization of our products;
- our ability to achieve and maintain compliance with all regulatory requirements applicable to our products and services;
- our ability to obtain, maintain and enforce our intellectual property rights;
- our ability and our third-party suppliers' ability to supply the components of our products in a timely manner, in accordance with our specifications, and in compliance with applicable regulatory requirements; and
- introduction of new products, technologies or alternative treatments for BPH that compete with our products.

The cumulative effects of these factors could result in large fluctuations and unpredictability in our quarterly and annual operating results. If our assumptions regarding the risks and uncertainties we face, which we use to plan our business, are incorrect or change due to circumstances in our business or our markets, or if we do not address these risks successfully, our operating and financial results could deviate materially from our expectations and our business could suffer.

This variability and unpredictability could also result in our failure to meet the expectations of industry or financial analysts or investors for any period. If our revenue or operating results fall below the expectations of analysts or investors or below any forecasts we may provide to the market, it will negatively affect our business, financial condition and results of operations.

The terms of our loan and security agreement require us to meet certain operating and financial covenants and place restrictions on our operating and financial flexibility. If we raise additional capital through debt financing, the terms of any new debt could further restrict our ability to operate our business.

As of June 30, 2021, we had $50.0 million outstanding in the form of a term loan under our loan and security agreement with Oxford Finance LLC, which was entered into in September 2019. The loan is secured by substantially all of our assets, including all of the capital stock held by us, if any. The loan and security agreement contains a number of restrictive covenants, and the terms may restrict our current and future operations, particularly our ability to respond to certain changes in our business or industry, or take future actions. See the section of this prospectus titled "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Indebtedness."

The loan and security agreement contains customary representations and warranties and affirmative covenants and also contains certain restrictive covenants, including, among others, limitations on: the incurrence of additional debt, liens or other encumbrances on property, acquisitions and investments, loans and guarantees, mergers, consolidations, liquidations and dissolutions, asset sales, dividends and other payments in respect of our capital stock, prepayments of certain debt, transactions with affiliates and changes to our type of business, management of the business, control of the business or business locations. The loan and security agreement also includes financial covenants that require us to, among other things, meet certain revenue targets detailed in an approved forecast. The loan and security agreement also contains customary events of default. If we fail to comply with such covenants, payments or other terms of the agreement, our lender could declare an event of default, which would give it the right to declare all borrowings outstanding, together with accrued and unpaid interest and fees, to be immediately due and payable. In addition, our lender would have the right to proceed against the assets we provided as collateral pursuant to the loan and security agreement. If the debt under the loan and security agreement were accelerated, we may not have sufficient cash or be able to sell sufficient assets to repay this debt, which would harm our business and financial condition.

Even if this offering is successful, we may need additional funding beyond the proceeds of this offering to finance our planned operations, and may not be able to raise capital when needed, which could force us to delay, reduce or eliminate one or more of our product development programs and future commercialization efforts.

Since our inception, we have incurred significant net losses and expect to continue to incur net losses for the foreseeable future. Since our inception, our operations have been financed primarily by net proceeds from the sale of our redeemable convertible preferred stock in private placements, indebtedness and, to a lesser extent, product revenue from sales of our AquaBeam Robotic System and single-use disposable handpieces. As of June 30, 2021, we had $159.2 million in cash and cash equivalents, and an accumulated deficit of $229.1 million. Based on our current operating plan, we currently believe that our cash and cash equivalents, anticipated revenue and available debt financing arrangements, together with the net proceeds from this offering, will be sufficient to meet our capital requirements and fund our operations through at least the next 12 months from the date of this prospectus. However, we have based these estimates on assumptions that may prove to be wrong, and we could utilize our available capital resources sooner than we currently expect. Changing circumstances could result in lower revenues or cause us to consume capital significantly faster than we currently anticipate, and we may need to raise capital sooner or in greater amounts than currently expected because of circumstances beyond our control.

Even after the consummation of this offering, we may require additional capital in the future as we expect to continue to invest in clinical trials and registries that are designed to provide clinical evidence of the safety and efficacy of our products, expanding our sales and marketing organization, and research and development of product improvements and future products. Moreover, we expect to incur additional expenses associated with operating as a public company, including legal, accounting, insurance, exchange listing and SEC compliance, investor relations and other expenses. To the extent additional capital is necessary, there are no assurances that we will be able to raise additional capital on favorable terms or at all, and therefore we may not be able to execute our business plan. Our future funding requirements will depend on many factors, including:

- the degree and rate of market acceptance of our current and future products and Aquablation therapy;
- the scope and timing of investment in our sales force and expansion of our commercial organization;
- the impact on our business from the ongoing and global COVID-19 pandemic and the end of the COVID-19 pandemic, or any other pandemic, epidemic or outbreak of an infectious disease;
- the scope, rate of progress and cost of our current or future clinical trials and registries;
- the cost of our research and development activities;
- the cost and timing of additional regulatory clearances or approvals;
- the costs associated with any product recall that may occur;
- the costs associated with the manufacturing of our products at increased production levels;
- the costs of attaining, defending and enforcing our intellectual property rights;
- whether we acquire third-party companies, products or technologies;
- the terms and timing of any other collaborative, licensing and other arrangements that we may establish;
- the emergence of competing technologies or other adverse market developments; and
- the rate at which we expand internationally.

We may seek to raise additional capital through equity offerings or debt financings and such additional financing may not be available to us on acceptable terms, or at all. In addition, any additional equity or debt financing that we raise may contain terms that are not favorable to us or our stockholders. For example, if we raise funds by issuing equity or equity-linked securities, the issuance of such securities could result in dilution to our stockholders. Any equity securities issued may also provide for rights, preferences or privileges senior to those of holders of our common stock. In addition, the issuance of additional equity securities by us, or the possibility of such issuance, may cause the market price of our common stock to decline, and the price per share at which we sell additional shares of our common stock, or securities convertible into or exercisable or exchangeable for shares of our common stock, in future transactions may be higher or lower than the price per share paid by investors in this offering.

In addition, the terms of debt securities issued or borrowings could impose significant restrictions on our operations including restrictive covenants, such as limitations on our ability to incur additional debt or issue additional equity, limitations on our ability to pay dividends, limitations on our ability to acquire or license intellectual property rights, and other operating restrictions that could adversely affect our ability to conduct our business. For example, our current loan and security agreement prohibits us from incurring additional indebtedness without the prior written consent of our lender. In the event that we enter into collaborations or licensing arrangements to raise capital, we may be required to accept unfavorable terms, such as relinquishment or licensing of certain technologies or products that we otherwise would seek to develop or commercialize ourselves, or reserve for future potential arrangements when we might otherwise be able to achieve more favorable terms. In addition, we

may be forced to work with a partner on one or more of our products or market development programs, which could lower the economic value of those programs to us.

If we are unable to obtain adequate financing on terms satisfactory to us when we require it, we may be required to terminate or delay the development of one or more of our products, delay clinical trials necessary to market our products, or delay establishment of sales and marketing capabilities or other activities necessary to commercialize our products. If this were to occur, our ability to grow and support our business and to respond to market challenges could be significantly limited, which could have a material adverse effect on our business, financial condition and results of operations.

Risks Related to Our Business and Industry

The commercial success of our AquaBeam Robotic System and Aquablation therapy will depend upon the degree of market acceptance of our products among hospitals, surgeons and patients.

Our success will depend, in large part, on the acceptance of our AquaBeam Robotic System as safe, effective, reliable and durable and, with respect to hospitals, healthcare providers and patients, as cost-effective. We believe Aquablation therapy represents a new approach for treating BPH, employing a computer-assisted patient-specific visualization system, a heat-free waterjet and automated robotic system to target and remove prostate tissue. We believe that market acceptance will be driven primarily by surgeons and hospitals, and if they do not adopt the concept of computer-assisted robotics-enabled technology and perceive such technology as having significant advantages over other surgical alternatives, patients will be less likely to accept or be offered Aquablation therapy and we will fail to meet our business objectives. Surgeons' and hospitals' perceptions of such technology having significant advantages are likely to be based on a determination that, among other factors, our products are safe, cost-effective and represent acceptable methods of treatment. Even if we can prove the effectiveness of Aquablation therapy through clinical trials, there may not be broad adoption and use of our products and surgeons may elect not to use our products for any number of other reasons, including:

- lack of experience with our products and concerns that we are relatively new to market;
- perceived liability risk generally associated with the use of new products and treatment options;
- lack or perceived lack of sufficient clinical evidence, including long-term data, supporting clinical benefits or the cost-effectiveness of our products over existing treatment alternatives;
- the failure of key opinion leaders to provide recommendations regarding our products, or to assure surgeons, patients and healthcare payors of the benefits of our products as an attractive alternative to other treatment options;
- perception that our products are unproven;
- long-standing relationships with companies and distributors that sell other products or treatment options for BPH;
- concerns over the capital investment required to purchase our AquaBeam Robotic System and perform Aquablation therapy procedures;
- lack of availability of adequate third-party payor coverage or reimbursement;
- pricing pressure, including from Group Purchasing Organizations, or GPOs, and Integrated Delivery Networks, or IDNs, seeking to obtain discounts on our AquaBeam Robotic System based on the collective buying power of the GPO and IDN members;
- competitive response and negative selling efforts from providers of alternative treatments;
- limitations or warnings contained in the labeling cleared or approved by the FDA or other authorities.

Even if our AquaBeam Robotic System achieves widespread market acceptance, it may not maintain such level of market acceptance over the long term if competing products or technologies, which are more cost-effective or received more favorably, are introduced. In addition, our limited commercialization experience makes it difficult to evaluate our current business and predict our future prospects. We cannot predict how quickly, if at all, hospitals, surgeons and patients will accept our AquaBeam Robotic System or, if accepted, how frequently it will be used. Failure to achieve or maintain market acceptance and/or market share could materially and adversely affect our ability to generate revenue and would have a material adverse effect on our business, financial condition and results of operations.

We have limited experience in training and marketing and selling our products and we may provide inadequate training, fail to increase our sales and marketing capabilities or fail to develop and maintain broad brand awareness in a cost-effective manner.

We have limited experience marketing and selling our products. We currently rely on our direct sales force and distributors to sell our products in targeted geographic regions and territories, and any failure to maintain and grow our direct sales force and distributor relationships could harm our business. The members of our direct sales force are adequately trained and possess technical expertise, which we believe is critical in driving the awareness and adoption of our products. The members of our U.S. sales force are at-will employees. The loss of these personnel to competitors, or otherwise, could materially harm our business. If we are unable to retain our direct sales force personnel or replace them with individuals of comparable expertise and qualifications, or if we are unable to successfully instill such expertise in replacement personnel, our product sales, revenues and results of operations could be materially harmed.

In order to generate future growth, we plan to continue to significantly expand and leverage our commercial infrastructure to increase our customer base and increase awareness and adoption by existing customers to drive our growth. Identifying and recruiting qualified sales and marketing professionals and training them on our products and Aquablation therapy, on applicable federal and state laws and regulations and on our internal policies and procedures requires significant time, expense and attention. It can take several months or more before a sales representative is fully trained and productive. Our sales force may subject us to higher fixed costs than those of companies with competing products or treatments that can utilize independent third parties, placing us at a competitive disadvantage. Our business may be harmed if our efforts to expand and train our sales force do not generate a corresponding increase in product sales and revenue, and our higher fixed costs may slow our ability to reduce costs in the face of a sudden decline in demand for our products. Any failure to hire, develop and retain talented sales personnel, to achieve desired productivity levels in a reasonable period of time or timely reduce fixed costs, could have material adverse effect on our business, financial condition and results of operations.

Our ability to increase our customer base and achieve broader market acceptance of our products will depend, to a significant extent, on our ability to expand our sales and marketing and educational efforts. We plan to dedicate significant resources to our sales and marketing and educational programs. Our business may be harmed if these efforts and expenditures do not generate a corresponding increase in revenue. In addition, we believe that developing and maintaining broad awareness of our Aquablation therapy in a cost-effective manner is critical to achieving broad acceptance of our products and reaching new physicians, hospitals and patients. Promotion and educational activities may not generate hospital or surgeon awareness or increase revenue, and even if they do, any increase in revenue may not offset the costs and expenses we incur. If we fail to successfully promote Aquablation therapy in a cost-effective manner, we may fail to attract or retain the market acceptance necessary to realize a sufficient return on our promotional and educational efforts, or to achieve broad adoption of our products.

We may not be able to obtain or maintain adequate levels of third-party coverage and reimbursement, and third parties may rescind or modify their coverage or delay payments related to our products.

We derive the majority of our revenue from sales of our AquaBeam Robotic System and single-use disposable handpieces to hospitals. Sales of our products will depend, in part, on the extent to which the procedures using our products are covered and reimbursed by third-party payors, including private insurers and government healthcare programs. Even if a third-party payor covers a particular treatment that uses our products, the resulting reimbursement rate may not be adequate to cover a provider’s cost to purchase our products or ensure such purchase

is profitable for the provider. As a result, access to adequate coverage and reimbursement for our products by third-party payors is essential to the acceptance and adoption of our products

Coverage and reimbursement by governmental and third-party payors may depend upon a number of factors, including the determination that the product or service and its use or administration for a particular patient is:

- a covered benefit;
- safe, effective and medically necessary;
- appropriate for the specific patient;
- supported by guidelines established by the relevant professional societies;
- cost-effective; and
- neither experimental nor investigational.

Our customers typically bill third-party payors for the costs and fees associated with the procedures in which our products are used. Because there is often no separate reimbursement for supplies used in surgical procedures or for the purchase of the capital equipment needed to perform a procedure, the additional cost associated with the use of our products can affect the profit margin of the hospital or surgery center where the procedure is performed. Some of our target customers may be unwilling to adopt our products in light of potential additional associated cost. In addition, customers that perform the procedure may be subject to reimbursement claim denials upon submission of the claim. Customers may also be subject to recovery of overpayments if a payor makes payment for the claim and subsequently determines that the payor's coding, billing or coverage policies were not followed. These events, or any other decline in the amount payors are willing to reimburse our customers, could make it difficult for existing customers to continue using or to adopt our products and could create additional pricing pressure for us. If we are forced to lower the price we charge for our products, our gross margins will decrease, which could have a material adverse effect on our business, financial condition and results of operations and impair our ability to grow our business.

Third-party payors, whether foreign or domestic, or governmental or commercial, are developing increasingly sophisticated methods of controlling healthcare costs by limiting coverage and the amount of reimbursement for particular products. In addition, no uniform policy of coverage and reimbursement for procedures using our products exists among third-party payors. Therefore, coverage and reimbursement for procedures using our products can differ significantly from payor to payor. Obtaining coverage and reimbursement can be a time-consuming process that could require us to provide supporting scientific, clinical and cost-effectiveness data for the use of our products. We may not be able to provide data sufficient to satisfy governmental and third-party payors that procedures using our products should be covered and reimbursed.

Payors continually review new and existing technologies for possible coverage and can, without notice, deny or reverse coverage for new or existing products and procedures. There can be no assurance that third-party payor policies will provide coverage for procedures in which our products are used. Many third-party payors do not currently cover our products and the related procedures because they have determined that our products and the related procedures are experimental or investigational. When our products and the related procedures are reimbursed, they are reimbursed primarily on a per-patient prior authorization basis for patients covered by commercial insurers.

Further, we believe that future coverage and reimbursement may be subject to increased restrictions, such as additional prior authorization requirements, both in the United States and in relevant international markets in which we plan to operate. If Medicare no longer covers any of our products, there would be a material adverse effect on our business, financial condition and results of operations. In addition, Medicare Administrative Contractors could issue a local coverage determination decision that could restrict the patients eligible for the treatment with our products or in another manner unfavorable to our business. Third-party coverage and reimbursement for procedures using our products or any of our products in development for which we may receive regulatory clearance or

approval may not be available or adequate in either the United States or international markets. Further, other BPH treatments may be more widely covered or subject to different co-pay policies and requirements, which could impact demand for our products. If hospital, surgeon and/or patient demand for our products is adversely affected by changes in third-party reimbursement policies and decisions, it could have a material adverse effect on our business, financial condition and results of operations.

We face competition from many sources, including larger companies, and we may be unable to compete successfully.

The medical device industry is highly competitive, subject to rapid change and significantly affected by the introduction of new products and technologies and other activities of industry participants. We compete with pharmaceutical products marketed to treat BPH, such as Flomax marketed by Boehringer Ingelheim, Rapaflow marketed by Allergan plc, Avodart marketed by GlaxoSmithKline plc, and Proscar marketed by Merck & Co., Inc., and with medical device companies that manufacture resective or non-resective surgical alternatives for treating BPH. Resective alternatives include devices for the TURP procedure, laser-based therapies and simple prostatectomy, each of which is intended to remove the prostate tissue, and non-resective alternatives such as UroLift marketed by Teleflex Incorporated and Rezum marketed by Boston Scientific Corporation, which are intended to reshape the prostate and widen the cavity. Our primary medical device competitors are Boston Scientific Corporation and smaller companies that have single products or a limited range of products. Moreover, other products that are in current clinical trials, new drugs or additional indications for existing drugs could demonstrate better safety, effectiveness, clinical results, lower costs or greater physician and market acceptance than our products.

We compete, or may compete in the future, against other companies which have longer, more established operating histories and significantly greater financial, technical, marketing, sales, distribution and other resources, which may prevent us from achieving significant market penetration or improved operating results. These companies may enjoy several competitive advantages, including:

- established treatment patterns pursuant to which drugs are generally first-line or concurrent therapies for the treatment of BPH;
- established relationships with hospitals and physicians who are familiar with other surgical alternatives for the treatment of BPH;
- greater financial and human capital resources;
- significantly greater name recognition;
- additional lines of products, and the ability to offer rebates or bundle products to offer greater discounts or incentives to gain a competitive advantage; and
- established sales, marketing and worldwide distribution networks.
- Our continued success depends on our ability to:
- improve outcomes for patients;
- maintain product safety, efficacy, reliability and durability;
- expand the quality and volume of our clinical data;
- effectively market to and educate patients, physicians and hospitals;
- maintain company, product and brand recognition;
- broaden our sales force experience and access;
- maintain product support and service;

- maintain and widen our technology lead over competitors by continuing to innovate and deliver new product enhancements on a continuous basis;
- develop successful pricing and revenue strategies;
- continue to maintain and expand reimbursement coverage for procedures using our products;
- achieve desired regulatory status and speed to market; and
- maintain dedicated clinical representatives.

One of the major hurdles to adoption of our products will be overcoming established treatment patterns, which will require education of surgeons and supportive clinical data. However, because of the size of the market opportunity for the treatment of BPH, we believe current and potential future competitors will dedicate significant resources to aggressively promote their products or develop new products or treatments. New treatment options may be developed that could compete more effectively with our products due to the prevalence of BPH and the research and technological progress that exist within the market.

If we are unable to continue to innovate and improve our AquaBeam Robotic System, we could lose customers or market share.

Our success will depend on our ability to keep ahead of innovative developments in the treatment of BPH. It is critical to our competitiveness that we continue to innovate and make improvements to our AquaBeam Robotic System's functionality and efficiency. If we fail to make improvements to our AquaBeam Robotic System's functionality over time, our competitors may develop products that offer features and functionality similar or superior to those of our AquaBeam Robotic System. If we fail to make improvements to our AquaBeam Robotic System's efficiency, our competitors may develop products that are more cost-effective than our AquaBeam Robotic System. Our failure to make continuous improvements to our AquaBeam Robotic System to keep ahead of the products of our competitors could result in the loss of customers or market share that would adversely affect our business, results of operations, and financial condition.

We have limited experience manufacturing our products in large-scale commercial quantities, and we face a number of manufacturing risks that may adversely affect our manufacturing abilities which could delay, prevent or impair our growth.

Our growth strategy depends on our ability to manufacture our current and future products in sufficient quantities and on a timely basis to meet customer demand, while adhering to product quality standards, complying with regulatory quality system requirements and managing manufacturing costs in our current manufacturing facility or any future manufacturing facilities. We have a sole manufacturing facility located in Redwood City, California, where we manufacture, assemble, inspect, test, package and ship our products. We currently assemble all of our AquaBeam Robotic System and single-use disposable handpieces at this one facility, and we do not have additional facilities. If this facility, or any of our future manufacturing facilities, suffers damage, or a force majeure event, such damage or event could materially impact our ability to operate, which could materially and adversely affect our business and financial performance.

We are also subject to numerous other risks relating to our manufacturing capabilities, including:

- quality and reliability of components, sub-assemblies and materials that we source from third-party suppliers, who are required to meet our quality specifications, almost all of whom are single source suppliers for the items and materials that they supply;
- our inability to secure components, sub-assemblies and materials in a timely manner, in sufficient quantities or on commercially reasonable terms;
- our inability to maintain compliance with quality system requirements or pass regulatory quality inspections;

- our failure to increase production capacity or volumes to meet demand;
- potential risks associated with disruptions in our supply chain, such as on account of the COVID-19 pandemic or other macroeconomic events;
- lead times associated with securing key components;
- our inability to design or modify production processes to enable us to produce future products efficiently or implement changes in current products in response to design or regulatory requirements; and
- difficulty identifying and qualifying, and obtaining new regulatory approvals, for alternative suppliers for components in a timely manner.

These risks are likely to be exacerbated by our limited experience with our current products and manufacturing processes. For instance, in both 2019 and 2021, we initiated voluntary recalls for a limited number of lots of our handpiece. These were both due to certain issues related to our supply chain and manufacturing processes. We remedied the issue leading to the 2019 recall and are remedying the issue leading to the 2021 recall as we continue to develop and improve our manufacturing processes to scale the production of our handpieces at a higher volume. As demand for our products increases, we will have to invest additional resources to purchase components, sub-assemblies and materials, hire and train employees and enhance our manufacturing processes. If we fail to increase our production capacity efficiently, we may not be able to fill customer orders on a timely basis, our sales may not increase in line with our expectations and our operating margins could fluctuate or decline. In addition, although some future products may share product features, components, sub-assemblies and materials with our existing products, the manufacture of these products may require modification of our current production processes or unique production processes, the hiring of specialized employees, the identification of new suppliers for specific components, sub-assemblies and materials or the development of new manufacturing technologies. It may not be possible for us to manufacture these products at a cost or in quantities sufficient to make these products commercially viable or to maintain current operating margins, all of which could have a material adverse effect on our business, financial condition and results of operations.

We depend upon third-party suppliers, including contract manufacturers and single source suppliers, making us vulnerable to supply shortages and price fluctuations that could negatively affect our business, financial condition and results of operations.

We rely on third-party suppliers, almost all of whom are single source suppliers, to provide us with certain components, sub-assemblies and materials for our products. These components, sub-assemblies and materials are critical and, for certain items, there are relatively few alternative sources of supply. These single source suppliers may be unwilling or unable to supply the necessary materials and components or manufacture and assemble our products in a reliable manner and at the levels we anticipate or at levels adequate to satisfy demand for our products. While our suppliers have generally met our demand for their products and services on a timely basis in the past, we cannot guarantee that they will in the future be able to meet our demand for such products, either because of acts of nature, the nature of our agreements with those suppliers or our relative importance to them as a customer, and our suppliers may decide in the future to discontinue or reduce the level of business they conduct with us.

We have not been qualified or obtained necessary regulatory approvals for additional suppliers for most of these components, sub-assemblies and materials. While we currently believe that alternative sources of supply or sterilization may be available, we cannot be certain whether they will be available if and when we need them, or that any alternative suppliers or providers would be able to provide the quantity and quality of components, materials and sterilization that we would need to manufacture and ship our products if our existing suppliers and providers were unable to satisfy our requirements. To utilize other sources, we would need to identify and qualify new providers to our quality standards and obtain any additional regulatory approvals required to change providers, which could result in manufacturing delays and increase our expenses.

Our dependence on third-parties subjects us to a number of risks that could impact our ability to manufacture our products and harm our business, including:

- interruption of supply or sterilization resulting from modifications to, or discontinuation of, a third party's operations;
- delays in product shipments resulting from uncorrected defects, reliability issues or a third party's failure to produce components or complete sterilizations that consistently meet our quality specifications;
- price fluctuations due to a lack of long-term supply arrangements with our third parties for key components or sterilization requirements;
- inability to obtain adequate supply or services in a timely manner or on commercially reasonable terms;
- difficulty identifying and qualifying alternative third parties for the supply of components or for sterilization of our products in a timely manner;
- inability of third parties to comply with applicable provisions of the FDA's Quality System Regulations, or QSR, or other applicable laws or regulations enforced by the FDA, state and global regulatory authorities;
- inability to ensure the quality of products manufactured or sterilization conducted by third parties;
- production delays related to the evaluation and testing of products and services from alternative third parties and corresponding regulatory qualifications;
- trends towards consolidation within the medical device manufacturing supplier industry; and
- delays in delivery by our suppliers and service providers.

Although we require our third-party suppliers and providers to supply us with components and services that meet our specifications and other applicable legal and regulatory requirements in our agreements and contracts, and we perform incoming inspection, testing or other acceptance activities to ensure the components meet our requirements, there is a risk that these third parties will not always act consistent with our best interests, and may not always supply components or provide services that meet our requirements or in a timely manner.

If we receive a significant number of warranty claims or our AquaBeam Robotic Systems require significant amounts of service after sale, our operating expenses may substantially increase and our business and financial results will be adversely affected.

We currently warrant each AquaBeam Robotic System against defects in materials and workmanship for a period of approximately 12 months from the installation of our product by a customer. We also expect to provide technical and other services to customers beyond the warranty period pursuant to a supplemental service plan that we sell for our AquaBeam Robotic System. We have a limited history of commercial placements from which to judge our rate of warranty claims, and we expect that the number of warranty claims we receive may increase as we scale our operations and as our existing commercial placements age. If product returns or warranty claims are significant or exceed our expectations, we could incur unanticipated reductions in sales or additional operating expenditures for parts and service. In addition, our reputation could be damaged and our products may not achieve the level of market acceptance that we are targeting in order to achieve and maintain profitability. Unforeseen warranty exposure could negatively impact our business and financial results.

We need to ensure strong product performance and reliability to maintain and grow our business.

We need to maintain and continuously improve the performance and reliability of our AquaBeam Robotic System to achieve our profitability objectives. Poor product performance and reliability could lead to customer dissatisfaction, adversely affect our reputation and revenues, and increase our service and distribution costs and working capital requirements. In addition, software and hardware incorporated into our AquaBeam Robotic System may contain errors or defects, especially when first introduced and while we have made efforts to test this software

and hardware extensively, we cannot assure that the software and hardware, or software and hardware developed in the future, will not experience errors or performance problems.

Our business, financial condition, results of operations and growth have been adversely impacted by the effects of the COVID-19 pandemic and may continue to be adversely impacted.

We are subject to risks related to the public health crises such as the global pandemic associated with COVID-19. The COVID-19 outbreak has negatively impacted and may continue to negatively impact, including the emergence and impact of the various COVID-19 variants, our operations and revenues and overall financial condition by decreasing the number of BPH procedures generally, which has slowed adoption of our AquaBeam Robotic System during the course of the pandemic. We believe the number of our systems sold has also been impacted as health care organizations globally have prioritized the treatment of patients with COVID-19. For example, for a period of time in the United States, governmental authorities recommended, and in certain cases required, that elective, specialty and other procedures and appointments be suspended or canceled to avoid non-essential patient exposure to medical environments and potential infection with COVID-19 and to focus limited resources and personnel capacity toward the treatment of COVID-19. These measures and challenges led to our decision to reforecast our revenue for 2020, and they may continue or resume for the duration of the pandemic, which is uncertain, and may negatively impact our revenue growth while the pandemic continues. Further, once the pandemic subsides, we anticipate there may be a backlog of patients seeking appointments with physicians and surgeries to be performed at hospitals relating to a variety of medical conditions. As a result, patients seeking to have our Aquablation therapy performed will have to navigate limited provider capacity. We also experienced a slowdown of enrollment in certain clinical trials.

Numerous state and local jurisdictions have imposed, and others in the future may impose, “shelter-in-place” orders, quarantines, executive orders, and similar government orders and restrictions for their residents to control the spread of COVID-19. Starting in mid-March 2020, the governor of California, where our headquarters are located, issued “shelter-in-place” or “stay at home” orders restricting non-essential activities, travel, and business operations, subject to certain exceptions for necessary activities. Such orders or restrictions have resulted in our headquarters closing, slowdowns and delays, travel restrictions, and cancellation of training and other events, among other effects, thereby negatively impacting our operations. Employees whose tasks can be performed offsite have been encouraged to work from home. Additionally, if the COVID-19 situation persists or worsens in certain geographies around the world, shutdowns and continued government restrictions may impact our sales activities, supply chain, and business.

Identifying and recruiting qualified sales and marketing personnel and training them has been, and continues to be, more difficult as a result of the COVID-19 pandemic as many of these activities must be conducted remotely, and we believe that some candidates are reluctant to change jobs during the pandemic. In addition, even when we are able to hire additional sales and marketing personnel, we must then train them on our product, applicable federal and state laws, and regulations, and on our internal policies and procedures. This training process was initially conducted remotely, which made training more challenging. We recently resumed partial in-person training with respect to training sales and marketing personnel, among others. Upon completion of the training, the lead time that our territory managers typically require in the field to grow their network of accounts and achieve the productivity levels we expect them to reach in any individual territory, has been, and continues to be, prolonged during and as a result of the COVID-19 pandemic. We have also experienced disruptions, and may experience future disruptions, including: delays in territory managers becoming fully trained and productive; challenges in analyzing territory manager performance and in recruiting and hiring new employees; difficulties and delays in physician outreach and training physicians to use our AquaBeam Robotic System; restrictions on personnel to travel; delays in initiation, enrollment and follow-ups of our clinical studies; challenges with maintaining adequate supply from third-party manufacturers of components and finished goods and distribution providers; and access to physicians for training and case support. In addition, our customers have experienced financial hardship and some of them may not fully recover. This could lead to some of these customers temporarily or permanently shutting down, filing for bankruptcy, or being acquired by larger health systems, leading to reduced procedures or additional pricing pressure on our products.

For more information, see “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Impact of COVID-19.”

In addition, to the extent the recovery from the COVID-19 pandemic is prolonged for any reason, including due to the emergence and impact of the various COVID-19 variants, and continues to adversely affect our business and results of operations, it may also have the effect of heightening many of the other risks and uncertainties described in this “Risk Factors” section.

We may encounter difficulties in managing our growth, which could disrupt our operations.

We have experienced substantial growth in our operations, and we expect to experience continued substantial growth in our business. For example, as of June 30, 2021, we had approximately 205 employees compared to 104 employees as of June 30, 2018. Over the next several years, we expect to increase significantly the scope of our operations, particularly in the areas of manufacturing, sales and support, research and development, product development, regulatory affairs, marketing and other functional areas, including finance, accounting, quality control, and legal, especially as we transition to operating as a public company. To manage our anticipated future growth, we must continue to implement and improve our managerial, operational quality and financial systems, expand our facilities and continue to recruit and train additional qualified personnel. Due to our limited financial resources, we may not be able to manage the expansion of our operations or recruit and train additional qualified personnel in an effective manner. In addition, the physical expansion of our operations may lead to significant costs and may divert our management and business development resources. Any inability to manage growth could delay the execution of our business plans or disrupt our operations.

Our results of operations will be materially harmed if we are unable to accurately forecast customer demand for, and utilization of, our AquaBeam Robotic System and manage our inventory.

To ensure adequate inventory supply, we must forecast inventory needs and manufacture our AquaBeam Robotic System console and the single-use disposable handpieces based on our estimates of future demand for, and utilization of, our AquaBeam Robotic System. Our ability to accurately forecast demand and utilization could be negatively affected by many factors, including our failure to accurately manage our expansion strategy, product introductions by competitors, an increase or decrease in customer demand for our products or for products of our competitors, our failure to accurately forecast customer acceptance of new products, unanticipated changes in general market conditions or regulatory matters and weakening of economic conditions or consumer confidence in future economic conditions. Inventory levels in excess of customer demand may result in inventory write-downs or write-offs, which would cause our gross margin to be adversely affected and could impair the strength of our brand. Conversely, if we underestimate customer demand and utilization, our supply chain, manufacturing partners and/or internal manufacturing team may not be able to deliver components and products to meet our requirements, and this could result in damage to our reputation and customer relationships. In addition, if we experience a significant increase in demand or utilization, additional supplies of raw materials or additional manufacturing capacity may not be available when required on terms that are acceptable to us, or at all, or suppliers may not be able to allocate sufficient capacity in order to meet our increased requirements, which will adversely affect our business, financial condition and results of operations.

Our internal computer systems, or those used by our contractors or consultants, may fail or suffer security breaches, and such failure could negatively affect our business, financial condition and results of operations.

We depend on our information technology systems for the efficient functioning of our business, including the manufacture, distribution and maintenance of our products, as well as for accounting, data storage, compliance, purchasing, inventory management and other related functions. We do not have redundant information technology in all aspects of our systems at this time. Despite the implementation of security and back-up measures, our internal computer, server, and other information technology systems as well as those of our third-party consultants, contractors, suppliers, and service providers, may be vulnerable to damage from physical or electronic break-ins, accidental or intentional exposure of our data by employees or others with authorized access to our networks, computer viruses, malware, ransomware, supply chain attacks, natural disasters, terrorism, war, telecommunication and electrical failure, denial of service, and other cyberattacks or disruptive incidents that could result in

unauthorized access to, use or disclosure of, corruption of, or loss of sensitive, and/or proprietary data, including personal information, including health-related information, and could subject us to significant liabilities and regulatory and enforcement actions, and reputational damage. Additionally, theft of our intellectual property or proprietary business information could require substantial expenditures to remedy. Such theft could also lead to loss of intellectual property rights through disclosure of our proprietary business information, and such loss may not be capable of remedying. If we or our third-party consultants, contractors, suppliers, or service providers were to suffer an attack or breach, for example, that resulted in the unauthorized access to or use or disclosure of personal or health information, we may have to notify consumers, partners, collaborators, government authorities, and the media, and may be subject to investigations, civil penalties, administrative and enforcement actions, and litigation, any of which could harm our business and reputation. Likewise, we rely on third parties to conduct clinical trials, and similar events relating to their computer systems and networks could also have a material adverse effect on our business. The COVID-19 pandemic has generally increased the risk of cybersecurity intrusions. Our reliance on internet technology and the number of our employees who are working remotely may create additional opportunities for cybercriminals to exploit vulnerabilities. For example, there has been an increase in phishing and spam emails as well as social engineering attempts from "hackers" hoping to use the recent COVID-19 pandemic to their advantage. Furthermore, because the techniques used to obtain unauthorized access to, or to sabotage, systems change frequently and often are not recognized until launched against a target, we may be unable to anticipate these techniques or implement adequate preventative measures. We may also experience security breaches that may remain undetected for an extended period. To the extent that any disruption or security breach were to result in a loss of, or damage to, our data or systems or data or systems of our commercial partners, or inappropriate or unauthorized access to or disclosure or use of confidential, proprietary, or other sensitive, personal, or health information, we could incur liability and suffer reputational harm. Failure to maintain or protect our information technology systems effectively could negatively affect our business, financial condition and results of operations.

Failure to comply with data protection laws and regulations could lead to government enforcement actions (which could include civil or criminal penalties), private litigation, and/or adverse publicity and could negatively affect our operating results and business.

We may be subject to federal, state, and foreign data protection laws and regulations (i.e., laws and regulations that address privacy and data security). In the United States, numerous federal and state laws and regulations, including state data breach notification laws, state health information privacy laws, and federal and state consumer protection laws and regulations that govern the collection, processing, use, disclosure, and protection of health-related and other personal information could apply to our operations or the operations of our partners. For example, the federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, or HITECH, and their respective implementing regulations, impose obligations on "covered entities," including certain health care providers, health plans, and health care clearinghouses, and their respective "business associates" that create, receive, maintain or transmit individually identifiable health information for or on behalf of a covered entity, as well as their covered subcontractors with respect to safeguarding the privacy, security and transmission of individually identifiable health information. We may obtain health information from third parties (including research institutions from which we obtain clinical trial data) that are subject to privacy and security requirements under HIPAA. Entities that are found to be in violation of HIPAA, whether as the result of a breach of unsecured PHI, a complaint about privacy practices, or an audit by the Department of Health and Human Services, or HHS, may be subject to significant civil, criminal, and administrative fines and penalties and/or additional reporting and oversight obligations if required to enter into a resolution agreement and corrective action plan with HHS to settle allegations of HIPAA non-compliance. Depending on the facts and circumstances, we could be subject to penalties if we violate HIPAA.

Even when HIPAA does not apply, according to the Federal Trade Commission, or the FTC, failing to take appropriate steps to keep consumers' personal information secure may constitute unfair acts or practices in or affecting commerce in violation of the Federal Trade Commission Act. The FTC expects a company's data security measures to be reasonable and appropriate in light of the sensitivity and volume of consumer information it holds, the size and complexity of its business, and the cost of available tools to improve security and reduce vulnerabilities. Individually identifiable health information is considered sensitive data that merits stronger safeguards.

In addition, certain state laws govern the privacy and security of health-related and other personal information in certain circumstances, some of which may be more stringent, broader in scope or offer greater individual rights with respect to protected health information than HIPAA, many of which may differ from each other, thus, complicating compliance efforts. Failure to comply with these laws, where applicable, can result in the imposition of significant civil and/or criminal penalties and private litigation. For example, California recently enacted the California Consumer Privacy Act, or CCPA, which creates new individual privacy rights for California consumers (as defined in the law), including the right to opt out of certain disclosures of their information, and places increased privacy and security obligations on entities handling certain personal data of consumers or households and may apply to us in the future. The CCPA also creates a private right of action with statutory damages for certain data breaches, thereby potentially increasing risks associated with a data breach. Further, the California Privacy Rights Act, or CPRA, recently passed in California. The CPRA will impose additional data protection obligations on covered businesses, including additional consumer rights processes, limitations on data uses, new audit requirements for higher risk data, and opt outs for certain uses of sensitive data. It will also create a new California data protection agency authorized to issue substantive regulations and could result in increased privacy and information security enforcement. The majority of the provisions will go into effect on January 1, 2023, and additional compliance investment and potential business process changes may be required. The CCPA and CPRA could mark the beginning of a trend toward more stringent privacy legislation in the United States, as other states or the federal government may follow California's lead and increase protections for U.S. residents. For example, on March 2, 2021, the Virginia Consumer Data Protection Act, which will take effect on January 1, 2023, was signed into law. The CCPA has already prompted a number of proposals for new federal and state privacy legislation that, if passed, could increase our potential liability, add layers of complexity to compliance in the U.S. market, increase its compliance costs and adversely affect its business.

Foreign data protection laws, including the General Data Protection Regulation, or GDPR, which went into effect in May 2018, may also apply to our processing of health-related and other personal data regardless of where the processing in question is carried out.

The GDPR imposes stringent requirements for controllers and processors of personal data of individuals within the European Economic Area, or EEA. The GDPR applies to any company established in the EEA as well as to those outside the EEA if they collect, process, and use personal data in connection with the offering of goods or services to individuals in the EEA or the monitoring of their behavior. The GDPR, together with national legislation, regulations and guidelines of the EEA Member States and the United Kingdom, or UK, governing the processing of personal data, impose strict obligations and restrictions on the ability to collect, analyze and transfer personal data, including health data from clinical trials and adverse event reporting. In particular, these obligations and restrictions involve the consent of the individuals to whom the personal data relates, the information provided to the individuals, the transfer of personal data out of the EEA or the UK to jurisdictions deemed to have inadequate, security breach notifications, security and confidentiality of the personal data and imposition of substantial potential fines for breaches of the data protection obligations. Companies that must comply with the GDPR face increased compliance obligations and risk, including more robust regulatory enforcement of data protection requirements and potential fines for noncompliance of up to €20 million or 4% of the annual global revenues of the noncompliant company, whichever is greater. Further, from January 1, 2021, companies have to comply with the GDPR and also the UK GDPR, which, together with the amended UK Data Protection Act 2018, retains the GDPR in UK national law. The UK GDPR mirrors the fines under the GDPR, e.g. fines up to the greater of €20 million (£17.5 million) or 4% of global turnover. The relationship between the UK and the European Union in relation to certain aspects of data protection law remains unclear, and it is unclear how UK data protection laws and regulations will develop in the medium to longer term, and how data transfers to and from the UK will be regulated in the long term. These changes will lead to additional costs and increase our overall risk exposure. Currently there is a four to six-month grace period agreed in the EU and UK Trade and Cooperation Agreement, ending June 30, 2021 at the latest, during which time the parties discuss an adequacy decision. The European Commission published a draft adequacy decision on February 19, 2021. If adopted, the decision will enable data transfers from EU Member States to the UK for a four-year period, subject to subsequent extensions.

Implementing mechanisms that endeavor to ensure compliance with the GDPR and relevant local legislation in EEA Member States and the UK may be onerous and may interrupt or delay our development activities, and

adversely affect our business, financial condition, results of operations, and prospects. In addition to the foregoing, a breach of the GDPR or other applicable privacy and data protection laws and regulations could result in regulatory investigations, reputational damage, and orders to cease/change our use of data, enforcement notices, or potential civil claims including class action-type litigation. While we have taken steps to comply with the GDPR where applicable, including by reviewing our security procedures, and entering into data processing agreements with relevant contractors, our efforts to achieve and remain in compliance may not be fully successful.

Compliance with US, foreign, and local privacy and security laws, rules and regulations could require us to take on more onerous obligations in our contracts, require us to engage in costly compliance exercises, restrict our ability to collect, use and disclose data, or in some cases, impact our or our partners' or suppliers' ability to operate in certain jurisdictions. Each of these constantly evolving laws can be subject to varying interpretations. Failure to comply with US and foreign data protection laws and regulations could result in government investigations and enforcement actions (which could include civil or criminal penalties), fines, private litigation, and/or adverse publicity and could negatively affect our operating results and business. Moreover, patients about whom we or our partners obtain information, as well as the providers who share this information with us, may contractually limit our ability to use and disclose the information. Claims that we have violated individuals' privacy rights, failed to comply with data protection laws, or breached our contractual obligations, even if we are not found liable, could be expensive and time-consuming to defend and could result in adverse publicity that could harm our business.

Natural or man-made disasters and other similar events may significantly disrupt our business, and negatively impact our business, financial condition and results of operations.

A significant portion of our employee base, and our primary operating facility and infrastructure are centralized in Northern California. Our facility may be harmed or rendered inoperable by natural or man-made disasters, including earthquakes, wildfires, floods, nuclear disasters, riots, acts of terrorism or other criminal activities, public health emergencies such as infectious disease outbreaks, including the COVID-19 pandemic, power outages and other infrastructure failures, which may render it difficult or impossible for us to operate our business for some period of time. Our facilities would likely be costly to repair or replace, and any such efforts would likely require substantial time. Any disruptions in our operations could adversely affect our business and results of operations and harm our reputation. Moreover, although we have disaster recovery plans, they may prove inadequate. We may not carry sufficient business insurance to compensate for losses that may occur. Any such losses or damages could have a material adverse effect on our business and results of operations. In addition, the facilities of our suppliers and manufacturers may be harmed or rendered inoperable by such natural or man-made disasters, which may cause disruptions, difficulties or otherwise materially and adversely affect our business, financial condition and results of operations.

The sizes of the addressable markets for our AquaBeam Robotic System have not been established with precision and our potential market opportunity may be smaller than we estimate and may decline.

Our estimates of the annual total addressable market for our AquaBeam Robotic System are based on a number of internal and third-party estimates, including, without limitation, the assumed prices at which we can sell our AquaBeam Robotic System and the single-use disposable handpieces. While we believe our assumptions and the data underlying our estimates are reasonable, these assumptions and estimates may not be correct and the conditions supporting our assumptions or estimates may change at any time, thereby reducing the predictive accuracy of these underlying factors. As a result, our estimates of the annual total addressable market for our AquaBeam Robotic System may prove to be incorrect. If the actual number of patients who would benefit from our AquaBeam Robotic System, the price at which we can sell our AquaBeam Robotic System, or the total addressable market for our AquaBeam Robotic System is smaller than we have estimated, it may impair our sales growth and materially and adversely affect our business, financial condition and results of operations.

Until we are able to achieve broader market acceptance of our AquaBeam Robotic System and Aquablation therapy, we may face risks associated with a more concentrated customer base.

One of our customers accounted for 19% of revenue during the year ended December 31, 2019. No customers accounted for more than 10% of revenue during the year ended December 31, 2020. Two customers accounted for

13% and 12% of revenue during the six months ended June 30, 2020. No customers accounted for more than 10% of revenue during the six months ended June 30, 2021. Three of our customers accounted for 20%, 18%, and 11% of accounts receivable at December 31, 2019. Two of our customers accounted for 22% and 13% of accounts receivable at December 31, 2020. One customer accounted for 11% of accounts receivable at June 30, 2021. While we believe this concentration is primarily attributable to our limited history of commercial operations, until we are able to achieve broader market acceptance of our AquaBeam Robotic System and Aquablation therapy, we may face risks associated with a more concentrated customer base. There are risks whenever a significant percentage of revenue is concentrated with a limited number of customers. For example, revenue from these customers may fluctuate from time to time based on these customers' business needs, the timing of which may be affected by market conditions or other facts outside of our control. These customers could also potentially pressure us to reduce the prices we charge for our single-use disposable handpieces, which could have an adverse effect on our margins and financial position and could negatively affect our revenue and results of operations. If any of our largest customers terminates its relationship with us, such termination could negatively affect our revenues and results of operations.

If product liability lawsuits are brought against us, we may incur substantial liabilities and may be required to limit or halt the marketing and sale of our products. The expense and potential unavailability of insurance coverage for liabilities resulting from our products could harm us and our ability to sell our products.

We face an inherent risk of product liability as a result of the marketing and sale of our products. For example, we may be sued if our AquaBeam Robotic System, the single-use disposable handpiece or any of their component parts causes, or is perceived to cause, injury or is found to be otherwise unsuitable during manufacturing, marketing or sale. We may also be subject to product liability claims if our products or services are deemed non-compliant with applicable laws or regulations. Any such product liability claim may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability or a breach of warranties. In addition, we may be subject to claims against us even if the apparent injury is due to the actions of others or the pre-existing health conditions of the patient. We may also be subject to claims that are caused by the activities of our suppliers, such as those who provide us with components and sub-assemblies, or manufacturers who produce our AquaBeam Robotic System and the single-use disposable handpieces.

If we cannot successfully defend ourselves against product liability claims, we may incur substantial liabilities or be required to limit or halt the marketing and sale of our products. Even successful defense would require significant financial and management resources. Regardless of the merits or eventual outcome, liability claims may result in:

- decreased demand for our products;
- harm to our reputation;
- initiation of investigations by regulators, which could result in enforcement action against us or our contract manufacturers;
- costs to defend the related litigation;
- a diversion of management's time and our resources;
- substantial monetary awards to trial participants or patients;
- product recalls, withdrawals or labeling, marketing or promotional restrictions;
- loss of revenue; and
- exhaustion of any available insurance and our capital resources.

The risk of a product liability lawsuit may increase if our products were deemed to be non-compliant with applicable laws and regulation. In the event we face a product liability lawsuit, we believe we have adequate product liability insurance, but it may not prove to be adequate to cover all liabilities that we may incur. Insurance coverage

is increasingly expensive. We may not be able to maintain or obtain insurance at a reasonable cost or in an amount adequate to satisfy any liability that may arise. Our insurance policy contains various exclusions, and we may be subject to a product liability claim for which we have no coverage. The potential inability to obtain sufficient product liability insurance at an acceptable cost to protect against product liability claims could prevent or inhibit the marketing and sale of our products. We may have to pay any amounts awarded by a court or negotiated in a settlement that exceed our coverage limitations or that are not covered by our insurance, and we may not have, or be able to obtain, sufficient capital to pay such amounts, which would have a material adverse effect on our business, financial condition and results of operations. In addition, any product liability claims brought against us, with or without merit, could increase our product liability insurance rates or prevent us from securing continuing coverage, harm our reputation in the industry, significantly increase our expenses and reduce product sales.

Cost-containment efforts of our customers, purchasing groups and governmental organizations could have a material adverse effect on our sales and profitability.

In an effort to reduce costs, many hospitals in the United States have become members of GPOs and IDNs. GPOs and IDNs negotiate pricing arrangements with medical device companies and distributors and then offer these negotiated prices to affiliated hospitals and other members. GPOs and IDNs typically award contracts on a category-by-category basis through a competitive bidding process. Bids are generally solicited from multiple providers with the intention of driving down pricing or reducing the number of vendors. Due to the highly competitive nature of the GPO and IDN contracting processes, we may not be able to obtain new, or maintain existing, contract positions with major GPOs and IDNs. Furthermore, the increasing leverage of organized buying groups may reduce market prices for our AquaBeam Robotic System, thereby reducing our revenue and margins.

While having a contract with a GPO or IDN for a given product category can facilitate sales to members of that GPO or IDN, such contract positions can offer no assurance that any level of sales will be achieved, as sales are typically made pursuant to individual purchase orders. Even when a provider is the sole contracted supplier of a GPO or IDN for a certain product category, members of the GPO or IDN are generally free to purchase from other suppliers. Furthermore, GPO and IDN contracts typically are terminable without cause by the GPO or IDN upon 60 to 90 days' notice. Accordingly, the members of such groups may choose to purchase alternative products due to the price or quality offered by other companies, which could result in a decline in our revenue.

We may seek strategic alliances, joint ventures or collaborations, or enter into licensing or partnership arrangements in the future and may not be successful in doing so, and even if we are, we may not realize the benefits or costs of such relationships.

We may form or seek strategic alliances, create joint ventures or collaborations or enter into licensing or partnership arrangements with third parties that we believe will compliment or augment our sales and marketing efforts with respect to our AquaBeam Robotic System. We may not be successful in our efforts to establish such collaborations. Any of these relationships may require us to incur non-recurring and other charges, increase our near and long-term expenditures, issue securities that dilute our existing stockholders or disrupt our management and business. In addition, we face significant competition in seeking appropriate strategic partners and the negotiation process is time-consuming and complex. Moreover, we may not be successful in our efforts to establish a strategic alliance or other alternative arrangements for our products. We cannot be certain that, following a strategic alliance or similar arrangement, we will achieve the revenue or specific net income that justifies such transaction. In addition, any potential future collaborations may be terminable by our collaborators, and we may not be able to adequately protect our rights under these agreements. Any termination of collaborations we enter into in the future, or delays in entering into new strategic partnership agreements could delay tour sales and marketing efforts, which would harm our business prospects, financial condition and results of operations.

Our future growth may depend, in part, on our ability to penetrate foreign markets, where we would be subject to additional regulatory burdens and other risks and uncertainties.

We currently market and sell our products in 15 countries outside of the United States, including Germany, France, Italy, Spain and the United Kingdom. The sale and shipment of our products across international borders, as well as the purchase of components and products from international sources, subjects us to extensive U.S. and other

foreign governmental trade, import and export and customs laws and regulations. Compliance with these laws and regulations is costly and exposes us to penalties for non-compliance. We expect our international activities will be dynamic over the foreseeable future as we continue to pursue opportunities in international markets. Our international business operations are subject to a variety of risks, including:

- difficulties in staffing and managing foreign and geographically dispersed operations, to the extent we establish non-U.S. operations;
- differing and multiple payor reimbursement regimes, government payors or patient self-pay systems;
- difficulties in determining and creating the proper sales pathway in new, international markets;
- compliance with various U.S. and international laws, including export control laws and the U.S. Foreign Corrupt Practices Act of 1977, or the FCPA, and anti-money laundering laws;
- differing regulatory requirements for obtaining clearances or approvals to market our products;
- changes in, or uncertainties relating to, foreign rules and regulations that may impact our ability to sell our products, perform services or repatriate profits to the United States;
- tariffs and trade barriers, export regulations, sanctions and other regulatory and contractual limitations on our ability to sell our products in certain foreign markets;
- potential adverse tax consequences, including imposition of limitations on or increase of withholding and other taxes on remittances and other payments by foreign subsidiaries or joint ventures;
- imposition of differing labor laws and standards;
- armed conflicts or economic, political or social instability in foreign countries and regions;
- fluctuations in foreign currency exchange rates;
- an inability, or reduced ability, to protect our intellectual property, including any effect of compulsory licensing imposed by government action; and
- availability of government subsidies or other incentives that benefit competitors in their local markets that are not available to us.

We are assessing the opportunity to expand into other international markets. However, our expansion plans may not be realized, or if realized, may not be successful. We expect each market to have particular regulatory hurdles to overcome, and future developments in these markets, including the uncertainty relating to governmental policies and regulations, could harm our business.

We are highly dependent on our senior management team and key personnel, and our business could be harmed if we are unable to attract and retain personnel necessary for our success.

We are highly dependent on our senior management, including our chief executive officer, Reza Zadno, Ph.D., and other key personnel. Our success will depend on our ability to retain senior management and to attract, recruit, retain, manage and motivate qualified personnel in the future, particularly with respect to an expected increase in hiring in connection with becoming a public company, including sales and marketing professionals, scientists, clinical specialists, engineers and other highly skilled personnel and to integrate current and additional personnel in all departments. The loss of members of our senior management, sales and marketing professionals, scientists, clinical and regulatory specialists and engineers could result in delays in product development and harm our business. If we are not successful in attracting and retaining highly qualified personnel, it would have a material adverse effect on our business, financial condition and results of operations.

Competition for skilled personnel in our market is intense and may limit our ability to hire and retain highly qualified personnel on acceptable terms, or at all. To induce valuable employees to remain at our company, we have

issued and may continue to issue equity awards that vest over time, in addition to salary and cash incentives. The value to employees of equity awards that vest over time may be significantly affected by movements in our stock price that are beyond our control, and may at any time be insufficient to counteract more lucrative offers from other companies. Despite our efforts to retain valuable employees, members of our management, scientific and development teams may terminate their employment with us on short notice. Our employment arrangements with our employees provide for at-will employment, which means that any of our employees could leave our employment at any time, with or without notice. We also do not maintain "key man" insurance policies on the lives of these individuals or the lives of any of our other employees. This lack of insurance means that we may not have adequate compensation for the loss of the services of these individuals.

We could be adversely affected by violations of the FCPA and similar worldwide anti-bribery laws, as well as violations of export or import controls or economic sanctions laws and regulations. Any investigation, and the outcome of any investigation, by government agencies of possible violations by us of such laws and regulations could have a material adverse effect on our business.

We are subject to anti-corruption laws and regulations, including the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.S. domestic bribery statute in 18 U.S.C. 201, the International Travel Act of 1961, as amended, or the U.S. Travel Act, the U.K. Bribery Act 2010, or the Bribery Act, and similar anti-bribery laws in jurisdictions in which we conduct activities. Anti-corruption laws are interpreted broadly and prohibit companies and their employees, agents, and intermediaries from corruptly authorizing, promising, providing, or offering, directly or indirectly, improper payments or anything else of value to government officials and persons in the private sector for the purpose of obtaining or retaining business. In addition, an organization that fails to prevent bribery by anyone associated with the organization can be charged under the Bribery Act, unless the organization can establish the defense of having implemented adequate procedures to prevent bribery.

We are also subject to export control and import laws and regulations, including the U.S. Export Administration Regulations, U.S. Customs regulations, and various economic and trade sanctions regulations administered by the U.S. Treasury Department's Office of Foreign Assets Controls. Compliance with applicable regulatory requirements regarding the export of our products may require us to obtain licenses and authorizations prior to export, create delays in the introduction of our products in certain international markets or, in some cases, prevent the export of our products to some countries altogether. Furthermore, U.S. export control laws and economic sanctions prohibit the shipment of certain products and services to countries, governments, and persons targeted by U.S. sanctions.

We are in the process of further enhancing policies designed to ensure compliance by us and our directors, officers, employees, representatives, consultants and agents with the FCPA, the Bribery Act, OFAC laws and regulations, and other export control, anti-corruption, anti-money-laundering and anti-terrorism laws and regulations. In the future, we may operate in parts of the world that pose a heightened corruption risk. Moreover, because of the significant role government entities play in the regulation of many foreign healthcare markets, we may be exposed to heightened FCPA and similar risks arising from our efforts to seek regulatory approval of and reimbursement for our products in such countries. We cannot assure you that our internal control policies and procedures will protect us from improper acts committed by our employees or agents, nor can we assure you that our business partners have not engaged and will not engage in improper conduct that could materially affect their ability to perform their contractual obligations to us or even result in our being held liable for such conduct. The U.S. Departments of Justice, Commerce, State and Treasury and other federal agencies and authorities have a broad range of civil and criminal penalties they may seek to impose against corporations and individuals for violations of anti-corruption laws, economic sanctions laws, and export control and import laws. In addition, violations of these laws, or allegations of such violations, would significantly disrupt our business and have a material adverse effect on our business, financial condition and results of operations.

Our ability to utilize our net operating loss carryforwards and research and development credit may be limited.

As of December 31, 2020, we had U.S. federal and state net operating loss, or NOL, carryforwards of approximately $170.8 million and $100.7 million, respectively, and U.S. federal and state research and development credit carryforwards of $3.1 million and $2.5 million, respectively. NOLs incurred in taxable years beginning after

December 31, 2017, may be carried forward indefinitely, but the deductibility of such federal NOLs in taxable years beginning after December 31, 2020, is limited to 80% of current year taxable income. In general, under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code, a corporation that undergoes an "ownership change," generally defined as a greater than 50 percentage point change by value in its equity ownership over a rolling three-year period, is subject to limitations on its ability to utilize its pre-change NOLs and its research and development credit carryforwards to offset post-change taxable income. Similar rules may apply under state tax laws. Our existing NOLs and research and development credit carryforwards have been, and may in the future be, subject to limitations arising from previous ownership changes, and if we undergo an ownership change, our ability to utilize NOLs and research and development credit carryforwards could be further limited by Sections 382 and 383 of the Code. Future changes in our stock ownership, some of which might be beyond our control, could result in an ownership change under Section 382 of the Code. For these reasons, in the event we experience a future change of control, we may not be able to utilize a material portion of the NOLs, research and development credit carryforwards or disallowed interest expense carryovers, even if we attain profitability. In addition, for state income tax purposes, the extent to which states will conform to the federal laws is uncertain and there may be periods during which the use of NOL carryforwards is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed. For example, California imposed limits on the usability of California state NOLs and tax credits in tax years beginning after 2019 and before 2023.

In addition, the tax benefit of NOLs, temporary differences and credit carryforwards are required to be recorded as an asset to the extent that we assess that realization is more likely than not. We believe that recognition of the deferred tax asset arising from these future tax benefits is not likely to be realized and, accordingly, have provided a full valuation allowance against our net deferred tax asset.

We may acquire other businesses which could require significant management attention, disrupt our business, dilute stockholder value and adversely affect our results of operations.

As part of our business strategy, we may in the future make acquisitions or investments in complementary companies, products or technologies that we believe fit within our business model and can address the needs of our existing and potential customers. However, we may not be able to acquire and integrate other companies, products or technologies in a successful manner. We may not be able to find suitable acquisition candidates, and we may not be able to complete such acquisitions on favorable terms, if at all. In addition, the pursuit of potential acquisitions may divert the attention of management and cause us to incur additional expenses in identifying, investigating and pursuing suitable acquisitions, whether or not they are consummated. If we do complete acquisitions, we may not ultimately strengthen our competitive position or achieve our goals, including increases in revenue, and any acquisitions we complete could be viewed negatively by our customers, investors and industry analysts.

Future acquisitions may reduce our cash available for operations and other uses and could result in amortization expense related to identifiable assets acquired. We may have to pay cash, incur debt or issue equity securities to pay for any such acquisition, each of which could adversely affect our financial condition or the value of our common stock. The sale or issuance of equity to finance any such acquisitions would result in dilution to our stockholders. The incurrence of indebtedness to finance any such acquisition would result in fixed obligations and could also include covenants or other restrictions that could impede our ability to manage our operations. In addition, our future results of operations may be adversely affected by the dilutive effect of an acquisition, performance earn-outs or contingent bonuses associated with an acquisition. Furthermore, acquisitions may require large, one-time charges and can result in increased debt or contingent liabilities, adverse tax consequences, additional stock-based compensation expenses and the recording and subsequent amortization of amounts related to certain purchased intangible assets, any of which items could negatively affect our future results of operations. We may also incur goodwill impairment charges in the future if we do not realize the expected value of any such acquisitions.

Also, the anticipated benefit of any acquisition may not materialize, or such acquisition may be prohibited. In September 2019, we entered into the loan and security agreement with Oxford Finance LLC which also restricts our ability to pursue certain mergers, acquisitions, amalgamations or consolidations that we may believe to be in our best interest. Additionally, future acquisitions or dispositions could result in potentially dilutive issuances of our equity securities, the incurrence of debt, contingent liabilities or amortization expenses or write-offs of goodwill, any

of which could harm our financial condition. We cannot predict the number, timing or size of future joint ventures or acquisitions, or the effect that any such transactions might have on our operating results.

Risks Related to Governmental Regulation

Changes to the reimbursement rates for BPH treatments and measures to reduce healthcare costs may adversely impact our business.

We derive our revenue from sales of our products to hospitals, ambulatory surgery centers and other healthcare facilities, which typically bill all or a portion of the costs and fees associated with using our products to various third-party payors, including Medicare, Medicaid, private commercial insurance companies, health maintenance organizations and other healthcare-related organizations. Because a vast majority of U.S. patients with BPH are covered by Medicare, the Medicare coverage policy and reimbursement rate are important factors in a physician's decision to use Aquablation therapy and limits the prices we may charge for our products. In order to facilitate access for Medicare beneficiaries to new devices, the Centers for Medicare & Medicaid Services, or CMS, the federal agency responsible for administering the Medicare program, grants approval for transitional pass-through payments under the Medicare hospital outpatient prospective payment system, or OPPS, and ambulatory surgical center, or ASC, payment system for medical devices that meet certain criteria. Effective January 1, 2020, hospitals and ASCs receive an additional payment for the single-use handpiece when performing Aquablation therapy in the hospital outpatient setting until December 31, 2022. When that payment expires, hospitals will no longer receive separate reimbursement for our device and instead, receive a single bundled payment rate intended to cover the costs of all items and services, including our products, using during the Aquablation therapy. Accordingly, the additional cost associated with the use of our products may affect the profit margin of the hospital or ASC where the procedure is performed. Some of our target customers may be unwilling to adopt our products in light of potential additional associated cost.

Many BPH patients have Medicaid coverage that is supplemental to Medicare coverage, and some BPH patients may have Medicaid as their primary coverage. Because Medicaid is a state-administered program, Medicaid coverage policies and reimbursement vary by state. Changes in state Medicaid or other non-Medicare government-based programs or payment rates could have an adverse effect on our customer's business.

Finally, some patients may have coverage through private insurance, for example through a marketplace plan set up under the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, or collectively, the ACA, or through an employer or union group health plan. Private insurance coverage policies can vary and reimbursement is generally higher than government reimbursement, but it varies by sponsor and plan. Commercial payment rates are negotiated between our customers and insurers or other third-party administrators, and commercial payors may also exert downward pressure on payment rates.

Any reduction in reimbursement rates for Aquablation therapy may adversely affect our customers' businesses and cause them to enact cost reduction measures that may include reducing the scope of their programs, which could result in a reduced demand for our product or additional pricing pressures.

Healthcare reform measures could hinder or prevent the commercial success of our AquaBeam Robotic System.

In the United States, there have been, and we expect there will continue to be, a number of legislative and regulatory changes to the healthcare system in ways that may harm our future revenues and profitability and the demand for our AquaBeam Robotic System. Federal and state lawmakers regularly propose and, at times, enact legislation that would result in significant changes to the healthcare system, some of which are intended to contain or reduce the costs of medical products and services. Current and future legislative and regulatory proposals to further reform healthcare or reduce healthcare costs may limit coverage of or lower reimbursement for the procedures associated with the use of our AquaBeam Robotic System. The cost containment measures that payors and providers are instituting and the effect of any healthcare reform initiative implemented in the future could impact our revenue from the sale of our AquaBeam Robotic System.

By way of example, in the United States, the ACA was enacted in March 2010 and substantially changed the way healthcare is financed by both governmental and private insurers, and significantly impacts our industry. The

ACA contained a number of provisions, including those governing enrollment in federal healthcare programs, reimbursement changes and fraud and abuse measures, all of which have impacted existing government healthcare programs and will result in the development of new programs. Since its enactment, there have been numerous amendments to the ACA and revisions to implementing regulations, along with judicial, executive and Congressional challenges to certain aspects of the ACA. On June 17, 2021, the Supreme Court ruled that states and individuals lacked standing to challenge the constitutionality of the ACA's individual mandate, post-repeal of its associated tax penalty. Additionally, President Biden issued an executive order that initiated a special enrollment period for purposes of obtaining health insurance coverage through the ACA marketplace, which began on February 15, 2021 and will remain open through August 15, 2021. The executive order also instructed certain governmental agencies to review and reconsider their existing policies and rules that limit access to healthcare, including among others, reexamining Medicaid demonstration projects and waiver programs that include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA. Additional legislative changes, regulatory changes and judicial challenges related to the ACA remain possible. We cannot predict what effect further changes related to the ACA, including under the Biden administration, will have on our business.

In addition, other legislative changes have been proposed and adopted since the ACA was enacted. For example, the Budget Control Act of 2011, among other things, and in connection with subsequent legislation, reduced Medicare payments to providers of, on average, 2% per fiscal year, which went into effect on April 1, 2013 and, due to subsequent legislative amendments to the statute, will remain in effect through 2030, with the exception of a temporary suspension from May 1, 2020 through December 31, 2021, unless additional Congressional action is taken. Additionally, the American Taxpayer Relief Act of 2012, among other things, further reduced Medicare payments to several categories of healthcare providers, including hospitals, and increased the statute of limitations period for the government to recover Medicare overpayments to providers from three to five years.

The continuing efforts of the government, insurance companies, managed care organizations and other payors of healthcare services to contain or reduce costs of healthcare may harm:

- our ability to set a price that we believe is fair for our AquaBeam Robotic System;
- our ability to generate revenue and achieve or maintain profitability; and
- the availability of capital.

The current presidential administration and Congress may continue to pursue significant changes to the current healthcare laws. We cannot predict what other laws and regulations will ultimately be enacted and implemented at the federal or state level or the effect of any future legislation or regulation in the United States on our business, financial condition, and results of operations. Future changes in healthcare policy could increase our costs and subject us to additional requirements that may interrupt commercialization of our current and future solutions, decrease our revenue and impact sales of and pricing for our current and future products.

We must comply with anti-kickback, fraud and abuse, false claims, transparency, and other healthcare laws and regulations.

Our current and future operations are subject to various federal and state healthcare laws and regulations. These laws affect our sales, marketing and other promotional activities by limiting the kinds of financial arrangements, including sales programs, we may have with hospitals, physicians or other potential purchasers or users, including patients, of medical devices and services. They also impose additional administrative and compliance burdens on us. In particular, these laws influence, among other things, how we structure our sales, placement and rental offerings, including discount practices, customer support, education and training programs and physician consulting and other service arrangements. The laws that affect our practices and arrangements include, but are not limited to:

- the U.S. federal Anti-Kickback Statute, which prohibits, among other things, persons or entities from knowingly and willfully soliciting, offering, receiving or paying any remuneration, directly or indirectly, overtly or covertly, in cash or in kind, to induce or reward either the referral of an individual for, or the purchase, lease, order, or arranging for or recommending the purchase, lease or order of, any good or

service, for which payment may be made, in whole or in part, under federal healthcare programs such as Medicare and Medicaid. The term "remuneration" has been broadly interpreted to include anything of value, and the government can establish a violation of the Anti-Kickback Statute without proving that a person or entity had actual knowledge of, or a specific intent to violate, the law. The Anti-Kickback Statute is subject to evolving interpretations and has been applied by government enforcement officials to a number of common business arrangements in the medical device industry. There are a number of statutory exceptions and regulatory safe harbors protecting some common activities from prosecution; however, those exceptions and safe harbors are drawn narrowly, and there is no exception or safe harbor for many common business activities. Failure to meet all of the requirements of a particular statutory exception or regulatory safe harbor does not make the conduct per se illegal under the Anti-Kickback Statute, but the legality of the arrangement will be evaluated on a case-by-case basis based on the totality of the facts and circumstances. Practices that involve remuneration to those who prescribe, purchase, or recommend medical device products, including discounts, or engaging individuals as speakers, consultants, or advisors, may be subject to scrutiny if they do not fit squarely within an exception or safe harbor. Our practices may not in all cases meet all of the criteria for safe harbor protection from anti-kickback liability. Moreover, there are no safe harbors for many common practices, such as reimbursement support programs, educational or research grants, or charitable donations;

- the U.S. federal civil False Claims Act, which prohibits any person from, among other things, knowingly presenting, or causing to be presented false or fraudulent claims for payment of government funds; knowingly making, using or causing to be made or used, a false record or statement material to an obligation to pay money to the government or knowingly and improperly avoiding, decreasing or concealing an obligation to pay money to the U.S. federal government. In addition, any claims submitted as a result of a violation of the federal Anti-Kickback Statute constitute false claims and are subject to enforcement under the False Claims Act. Actions under the False Claims Act may be brought by the government or as a qui tam action by a private individual in the name of the government and to share in any monetary recovery. Qui tam actions are filed under seal and impose a mandatory duty on the U.S. Department of Justice to investigate such allegations. False Claims Act liability is potentially significant in the healthcare industry because the statute provides for treble damages and significant mandatory penalties (adjusted annually for inflation) per false claim or statement for violations. Because of the potential for large monetary exposure, healthcare companies often resolve allegations without admissions of liability for significant and sometimes large settlement amounts to avoid the uncertainty of treble damages and per claim penalties that may be awarded in litigation proceedings. Many device manufacturers have resolved investigations of alleged improper activities, including causing false claims to be submitted as a result of the marketing of their products for unapproved and thus non reimbursable uses, and other interactions with prescribers and other customers including those that may have affected their billing or coding practices and submission to the federal government. Moreover, to avoid the risk of exclusion from federal healthcare programs as a result of a False Claims Act settlement, companies may enter into corporate integrity agreements with the government, which may impose substantial costs on companies to ensure compliance. There are also criminal penalties, including imprisonment and criminal fines, for making or presenting a false or fictitious or fraudulent claim or statement to the federal government;

- criminal healthcare statutes that were added by HIPAA, and its implementing regulations, which imposes criminal and civil liability for, among other things, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program, or knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false statement, in connection with the delivery of, or payment for healthcare benefits, items or services by a healthcare benefit program, which includes both government and privately funded benefits programs; similar to the U.S. federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate them in order to have committed a violation;

- the Physician Payments Sunshine Act, or Sunshine Act, and its implementing regulations, which requires certain manufacturers of drugs, devices, biologics and medical supplies that are reimbursable under Medicare, Medicaid, or the Children's Health Insurance Program to report annually to the CMS

information related to certain payments made in the preceding calendar year and other transfers of value to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors) and teaching hospitals, as well as ownership and investment interests held by physicians and their immediate family members. Beginning January 1, 2022, manufacturers will also be required to report payments and other transfers of value made during the prior calendar year to physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, anesthesiology assistants and certified nurse-midwives; and

- foreign and state laws and regulations, including state payment reporting, anti-kickback and false claims laws, that may apply to items or services reimbursed by any third-party payor, including private insurers; foreign and state laws that require medical device companies to comply with the medical device industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the U.S. federal government and other national governments, or otherwise restrict payments that may be made to healthcare providers and other potential referral sources; and foreign and state laws and regulations that require drug and device manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts.

The scope and enforcement of these laws is substantial and subject to rapid change. The shifting compliance environment and the need to build and maintain robust compliance programs, systems, and processes to comply with different compliance and/or reporting requirements in multiple jurisdictions increase the possibility that we may run afoul of one or more of the requirements or that federal or state regulatory authorities might challenge our current or future activities under these laws. Additionally, we cannot predict the impact of any changes in these laws, whether or not retroactive. Because of the breadth of these laws and the narrowness of available statutory and regulatory exemptions or safe harbors, it is possible that some of our activities, such as stock-option compensation paid to physicians or our practice of loaning equipment to customers at no additional cost, could be subject to challenge under one or more of such laws. Any government investigation, even if we are able to successfully defend against it, will require the expenditure of significant resources, is likely to generate negative publicity, harm our reputation and potentially our financial condition and divert the attention of our management. Moreover, any investigation into our practices could cause adverse publicity and require a costly and time-consuming response. If our operations are found to be in violation of any of these laws or any other governmental regulations that may apply to us, we may be subject to significant civil, criminal and administrative penalties, damages, fines, imprisonment of individuals, exclusion from government funded healthcare programs, such as Medicare and Medicaid, imposition of compliance obligations and monitoring, and the curtailment or restructuring of our operations. Any of the foregoing consequences could seriously harm our business and our financial results.

Our AquaBeam Robotic System and our operations are subject to extensive government regulation and oversight in the United States. If we fail to maintain necessary marketing authorizations for our AquaBeam Robotic System, or if approvals or clearances for future products or modifications to existing products are delayed or not issued, it will negatively affect our business, financial condition and results of operations.

Our AquaBeam Robotic System is a medical device subject to extensive regulation in the United States and elsewhere, including by the FDA and its foreign counterparts. Government regulations specific to medical devices are wide ranging and govern, among other things:

- product design, development, manufacture, and release;
- laboratory and clinical testing, labeling, packaging, storage and distribution;
- product safety and efficacy;
- premarketing clearance or approval;
- service operations, including relationships with healthcare providers;
- record keeping;

- product marketing, promotion and advertising, registration, sales and distribution;
- post-marketing surveillance, including reporting of deaths or serious injuries and recalls and correction and removals;
- post-market approval studies; and
- product import and export.

The regulations to which we are subject are complex and have tended to become more stringent over time. Regulatory changes could result in restrictions on our ability to carry on or expand our operations, higher than anticipated costs or lower than anticipated sales. The FDA enforces these regulatory requirements through, among other means, periodic unannounced inspections. We do not know whether we will be found compliant in connection with any future regulatory inspections. Moreover, the FDA and state authorities have broad enforcement powers. Our failure to comply with applicable regulatory requirements could result in enforcement action by any such agency, which may include any of the following sanctions:

- adverse publicity, warning letters, untitled letters, it has come to our attention letters, fines, injunctions, consent decrees and civil penalties;
- repair, replacement, refunds, recall or seizure of our AquaBeam Robotic System;
- operating restrictions, partial suspension or total shutdown of production;
- denial of our requests for regulatory clearance or approval of new products, new intended uses or modifications to existing products;
- withdrawal or suspension of regulatory clearance or approval that have already been granted; or
- criminal prosecution.

If any of these events were to occur, it will negatively affect our business, financial condition and results of operations.

We may not receive, or may be delayed in receiving, the necessary clearances or approvals for our future products or modifications to our current products, and failure to timely obtain necessary clearances or approvals for our future products or modifications to our current products would adversely affect our ability to grow our business.

The FDA classifies medical devices into one of three classes on the basis of the intended use of the device, the risk associated with the use of the device for that indication, as determined by the FDA, and on the controls deemed by the FDA to be necessary to reasonably ensure their safety and effectiveness.

Class I includes devices with the lowest risk to the patient and are those for which safety and effectiveness can be assured by adherence to the FDA's General Controls for medical devices, which include compliance with the applicable portions of the QSR facility registration and product listing, reporting of adverse medical events, and truthful and non-misleading labeling, advertising, and promotional materials. Class II devices are subject to the FDA's General Controls, and special controls as deemed necessary by the FDA to ensure the safety and effectiveness of the device. These special controls can include performance standards, post-market surveillance, patient registries and FDA guidance documents.

While most Class I devices are exempt from the 510(k) premarket notification requirement, manufacturers of most Class II devices are required to submit to the FDA a premarket notification under Section 510(k) of the FDCA requesting permission to commercially distribute the device. The FDA's permission to commercially distribute a device subject to a 510(k) premarket notification is generally known as 510(k) clearance. Devices deemed by the FDA to pose the greatest risks, such as life sustaining, life supporting or some implantable devices, or devices that have a new intended use, or use advanced technology that is not substantially equivalent to that of a legally marketed device, are placed in Class III, requiring approval of a premarket approval application, or PMA. Some pre-

amendment devices are unclassified, but are subject to FDA's premarket notification and clearance process in order to be commercially distributed. Our AquaBeam Robotic System is a Class II device subject to 510(k) clearance.

Before a new medical device, or a new intended use of, claim for, or significant modification to an existing device, can be marketed in the United States, a company must first submit an application for and receive either 510(k) clearance pursuant to a premarket notification submitted under Section 510(k) of the FDCA, de novo classification, or approval of a PMA from the FDA, unless an exemption applies. Most Class I devices and some Class II devices are exempt from these premarket review requirements. In the 510(k) clearance process, before a device may be marketed, the FDA must determine that a proposed device is substantially equivalent to a legally-marketed predicate device, which includes a device that has been previously cleared through the 510(k) process, a device that was legally marketed prior to May 28, 1976 (pre-amendments device), a device that was originally on the U.S. market pursuant to an approved PMA and later down-classified, or a 510(k)-exempt device. To be substantially equivalent, the proposed device must have the same intended use as the predicate device, and either have the same technological characteristics as the predicate device or have different technological characteristics and not raise different questions of safety or effectiveness than the predicate device. Clinical data are sometimes required to support substantial equivalence.

In the process of obtaining PMA approval the FDA must determine that a proposed device is safe and effective for its intended use based, in part, on extensive data, including, but not limited to, technical, clinical trial, manufacturing and labeling data.

In the de novo classification process, a manufacturer whose novel device would otherwise be automatically classified as Class III and require the submission and approval of a PMA prior to marketing is able to request down-classification of the device to Class I or Class II on the basis that the device presents a low or moderate risk. If the FDA grants the de novo classification request, the applicant will receive authorization to market the device. This device type may be used subsequently as a predicate device for future 510(k) submissions. Prior to the enactment of the Food and Drug Administration Safety and Innovation Act of 2012, or FDASIA, a medical device could only be eligible for de novo classification if the manufacturer first submitted a 510(k) premarket notification and received a determination from the FDA that the device was not substantially equivalent. FDASIA streamlined the de novo classification pathway by permitting manufacturers to request de novo classification directly without first submitting a 510(k) premarket notification to the FDA and receiving a not substantially equivalent determination.

The 510(k), de novo or PMA processes can be expensive, lengthy and unpredictable. The FDA's 510(k) clearance process usually takes from three to 12 months, but can last longer. The process of obtaining a PMA is much more costly and uncertain than the 510(k) clearance process and generally takes from one to three years, or even longer, from the time the application is filed with the FDA. In addition, a PMA generally requires the performance of one or more clinical trials. Despite the time, effort and cost, a device may not be approved or cleared by the FDA. Any delay or failure to obtain necessary regulatory clearances or approvals could harm our business. Furthermore, even if we are granted regulatory clearances or approvals, they may include significant limitations on the indicated uses for the device, which may limit the market for the device.

We originally obtained de novo classification of our AquaBeam Robotic System for use in patients with BPH, and have subsequently obtained 510(k) clearances for modifications to the system. Any modification to these systems that has not been previously cleared may require us to submit a new 510(k) premarket notification and obtain clearance, or depending on the change, we may be required to submit a PMA and obtain FDA approval before implementing the change. Specifically, any modification to a 510(k)-cleared device that could significantly affect its safety or effectiveness, or that would constitute a major change in its intended use, design or manufacture, requires a new 510(k) clearance or, possibly, approval of a PMA. The FDA requires every manufacturer to make this determination in the first instance, but the FDA may review any manufacturer's decision. The FDA may not agree with our decisions regarding whether new clearances or approvals are necessary. We have made modifications to 510(k)-cleared products in the past and have determined based on our review of the applicable FDA regulations and guidance that in certain instances new 510(k) clearances or PMA approvals were not required. We may make modifications or add additional features in the future that we believe do not require a new 510(k) clearance or approval of a PMA. If the FDA disagrees with our determination and requires us to submit new 510(k) notifications or PMA applications for modifications to our previously cleared products for which we have concluded that new

clearances or approvals are unnecessary, we may be required to cease marketing or to recall the modified product until we obtain clearance or approval, and we may be subject to significant regulatory fines or penalties. If the FDA requires us to go through a lengthier, more rigorous examination for future products or modifications to existing products than we had expected, product introductions or modifications could be delayed or canceled, which could adversely affect our ability to grow our business.

The FDA or other regulators can delay, limit, or deny clearance or approval of a device for many reasons, including:

- our inability to demonstrate to the satisfaction of the FDA or the applicable regulatory entity or notified body that our AquaBeam Robotic System, or any other future device, and any accessories are substantially equivalent to a legally marketed predicate device or safe or effective for their proposed intended uses;
- the disagreement of the FDA with the design or implementation of any clinical trials or the interpretation of data from preclinical studies or clinical trials;
- serious and unexpected adverse device effects experienced by participants in our clinical trials;
- the insufficiency of the data from preclinical studies or clinical trials to support clearance or approval, where required;
- our inability to demonstrate that the clinical and other benefits of the device outweigh the risks;
- the failure of our manufacturing process or facilities to meet applicable requirements; and
- the potential for approval policies or regulations of the FDA or applicable foreign regulatory bodies to change significantly in a manner rendering our clinical data or regulatory filings insufficient for clearance or approval.

Our future success depends on our ability to develop, receive regulatory clearance or approval for, and introduce new products that will be accepted by the market in a timely manner. There is no guarantee that the FDA will grant 510(k) clearance or PMA approval of our future products on a timely basis, if at all, and failure to obtain necessary clearances or approvals for our future products would adversely affect our ability to grow our business.

It is important to our business that we build a pipeline of product offerings that address limitations of current BPH products. As such, our success will depend in part on our ability to develop and introduce new products. However, we may not be able to successfully develop and obtain regulatory clearance or approval for product enhancements, or new products for any number of reasons, including due to the cost associated with certain regulatory approval requirements, or these products may not be accepted by physicians or users.

The success of any new product offering or enhancement to an existing product will depend on a number of factors, including our ability to, among others:

- identify and anticipate physician and patient needs properly;
- develop and introduce new products or product enhancements in a timely manner;
- avoid infringing upon the intellectual property rights of third parties;
- demonstrate, if required, the safety and efficacy of new products with data from clinical studies;
- obtain the necessary regulatory clearances or approvals for new products or product enhancements;
- comply fully with the FDA and foreign regulations on marketing of new products or modified products; and
- provide adequate training to potential users of our AquaBeam Robotic System.

If we do not develop new products or product enhancements in time to meet market demand or if there is insufficient demand for these products or enhancements, or if our competitors introduce new products with functionalities that are superior to ours, our results of operations will suffer.

Some of our future products will require FDA clearance of a 510(k). Other products may require the approval of a PMA. In addition, some of our future products may require clinical trials to support regulatory approval and we may not successfully complete these clinical trials. The FDA may not approve or clear these products for the indications that are necessary or desirable for successful commercialization. Indeed, the FDA may refuse our requests for 510(k) clearance or PMA of new products. Failure to receive clearance or approval for our new products would have an adverse effect on our ability to expand our business.

Modifications to our marketed products may require new 510(k) clearances or PMA approvals, or may require us to cease marketing or recall the modified products until clearances or approvals are obtained.

Modifications to our AquaBeam Robotic System and associated consumables may require new regulatory approvals or clearances, including 510(k) clearances or PMAs, or require us to recall or cease marketing the modified systems until these clearances or approvals are obtained. The FDA requires device manufacturers to initially make and document a determination of whether or not a modification requires a new approval, supplement or clearance. A manufacturer may determine that a modification could not significantly affect safety or efficacy and does not represent a major change in its intended use, so that no new 510(k) clearance is necessary. However, the FDA can review a manufacturer's decision and may disagree. The FDA may also on its own initiative determine that a new clearance or approval is required. We have made modifications to our AquaBeam Robotic System in the past and may make additional modifications in the future that we believe do not or will not require additional clearances or approvals. If the FDA disagrees and requires new clearances or approvals for the modifications, we may be required to recall and to stop marketing our AquaBeam Robotic System as modified, which could require us to redesign our AquaBeam Robotic System and/or seek new marketing authorizations and harm our operating results. In these circumstances, we may be subject to significant enforcement actions.

If a manufacturer determines that a modification to an FDA-cleared device could significantly affect its safety or effectiveness, or would constitute a major change in its intended use, then the manufacturer must file for a new 510(k) clearance or possibly a PMA application. Where we determine that modifications to our AquaBeam Robotic System require a new 510(k) clearance or PMA application, we may not be able to obtain those additional clearances or approvals for the modifications or additional indications in a timely manner, or at all. Obtaining clearances and approvals can be a time-consuming process, and delays in obtaining required future clearances or approvals would adversely affect our ability to introduce new or enhanced products in a timely manner, which in turn would harm our future growth.

Even though we have obtained marketing authorization for our AquaBeam Robotic System, we are subject to ongoing regulatory review and scrutiny. Failure to comply with post-marketing regulatory requirements could subject us to enforcement actions, including substantial penalties, and might require us to recall or withdraw a product from the market.

Even though we have obtained marketing authorization for our AquaBeam Robotic System, it and any other product for which we obtain clearance or approval, and the manufacturing processes, post-market surveillance, post-approval clinical data and promotional activities for such product, are or, in the case of future products, will be, subject to continued regulatory review, oversight, requirements, and periodic inspections by the FDA and other domestic and foreign regulatory bodies. In particular, we and our suppliers are required to comply with FDA's QSR and other regulations enforced outside the United States which cover the manufacture of our products and the methods and documentation of the design, testing, production, control, quality assurance, labeling, packaging, storage and shipping of medical devices. Regulatory bodies, such as the FDA, enforce the QSR and other regulations through periodic inspections. The failure by us or one of our suppliers to comply with applicable statutes and regulations administered by the FDA and other regulatory bodies, or the failure to timely and adequately respond to

any adverse inspectional observations or product safety issues, could result in, among other things, any of the following enforcement actions:

- untitled letters, warning letters, fines, injunctions, consent decrees and civil penalties;
- unanticipated expenditures to address or defend such actions;
- customer notifications for repair, replacement, refunds;
- recall, detention or seizure of our products;
- operating restrictions or partial suspension or total shutdown of production;
- refusing or delaying our requests for 510(k) clearance or PMA of new products or modified products;
- operating restrictions;
- withdrawal of 510(k) clearances on PMA approvals that have already been granted;
- refusal to grant export approval for our products; or
- criminal prosecution.

If any of these actions were to occur it would harm our reputation and cause our product sales and profitability to suffer and may prevent us from generating revenue. Furthermore, our key component suppliers may not currently be or may not continue to be in compliance with all applicable regulatory requirements which could result in our failure to produce our products on a timely basis and in the required quantities, if at all.

In addition, we are required to conduct costly post-market testing and surveillance to monitor the safety or effectiveness of our products, and we must comply with medical device reporting requirements, including the reporting of adverse events and malfunctions related to our products. Later discovery of previously unknown problems with our products, including unanticipated adverse events or adverse events of unanticipated severity or frequency, manufacturing problems, or failure to comply with regulatory requirements such as QSR, may result in changes to labeling, restrictions on such products or manufacturing processes, withdrawal of the products from the market, voluntary or mandatory recalls, a requirement to repair, replace or refund the cost of any medical device we manufacture or distribute, fines, suspension of regulatory approvals, product seizures, injunctions or the imposition of civil or criminal penalties which would adversely affect our business, operating results and prospects.

Our products may cause or contribute to adverse medical events or be subject to failures or malfunctions that we are required to report to the FDA, and if we fail to do so, we would be subject to sanctions that could harm our reputation, business, financial condition and results of operations. The discovery of serious safety issues with our products, or a recall of our products either voluntarily or at the direction of the FDA or another governmental authority, could have a negative impact on us.

We are subject to the FDA's medical device reporting regulations and similar foreign regulations, which require us to report to the FDA when we receive or become aware of information that reasonably suggests that one or more of our products may have caused or contributed to a death or serious injury or malfunctioned in a way that, if the malfunction were to recur, it could cause or contribute to a death or serious injury. The timing of our obligation to report is triggered by the date we become aware of the adverse event as well as the nature of the event. We may fail to report adverse events of which we become aware within the prescribed timeframe. We may also fail to recognize that we have become aware of a reportable adverse event, especially if it is not reported to us as an adverse event or if it is an adverse event that is unexpected or removed in time from the use of the product. If we fail to comply with our reporting obligations, the FDA could take action, including warning letters, untitled letters, administrative actions, criminal prosecution, imposition of civil monetary penalties, revocation of our device clearance or approval, seizure of our products or delay in clearance or approval of future products.

The FDA and foreign regulatory bodies have the authority to require the recall of commercialized products in the event of material deficiencies or defects in design or manufacture of a product or in the event that a product poses an unacceptable risk to health. The FDA's authority to require a recall must be based on a finding that there is reasonable probability that the device could cause serious injury or death. We may also choose to voluntarily recall a product if any material deficiency is found. A government-mandated or voluntary recall by us could occur as a result of an unacceptable risk to health, component failures, malfunctions, manufacturing defects, labeling or design deficiencies, packaging defects or other deficiencies or failures to comply with applicable regulations. Product defects or other errors may occur in the future.

Depending on the corrective action we take to redress a product's deficiencies or defects, the FDA may require, or we may decide, that we will need to obtain new clearances or approvals for the device before we may market or distribute the corrected device. Seeking such clearances or approvals may delay our ability to replace the recalled devices in a timely manner. Moreover, if we do not adequately address problems associated with our devices, we may face additional regulatory enforcement action, including FDA warning letters, product seizure, injunctions, administrative penalties or civil or criminal fines.

Companies are required to maintain certain records of recalls and corrections, even if they are not reportable to the FDA. We may initiate voluntary withdrawals or corrections for our products in the future that we determine do not require notification of the FDA. If the FDA disagrees with our determinations, it could require us to report those actions as recalls and we may be subject to enforcement action. A future recall announcement could harm our reputation with customers, potentially lead to product liability claims against us and negatively affect our sales. Any corrective action, whether voluntary or involuntary, as well as defending ourselves in a lawsuit, will require the dedication of our time and capital, will distract management from operating our business and may harm our reputation and financial results.

Our products must be manufactured in accordance with federal and state regulations, and we could be forced to recall our devices or terminate production if we fail to comply with these regulations.

The methods used in, and the facilities used for, the manufacture of our products must comply with the FDA's QSR, which is a complex regulatory scheme that covers the procedures and documentation of the design, testing, production, process controls, quality assurance, labeling, packaging, handling, storage, distribution, installation, servicing and shipping of medical devices. Furthermore, we are required to verify that our suppliers maintain facilities, procedures and operations that comply with our quality standards and applicable regulatory requirements. The FDA enforces the QSR through periodic announced or unannounced inspections of medical device manufacturing facilities, which may include the facilities of subcontractors. Our products are also subject to similar state regulations and various laws and regulations of foreign countries governing manufacturing.

We or our third-party manufacturers may not take the necessary steps to comply with applicable regulations, which could cause delays in the delivery of our products. For instance, in 2019 we initiated a voluntary recall for a limited number of lots of our handpiece due to certain issues related to our supply chain and manufacturing processes. We have remedied these issues as we developed our manufacturing processes to scale the production of our handpieces at a higher volume. In addition, failure to comply with applicable FDA requirements or later discovery of previously unknown problems with our products or manufacturing processes could result in, among other things: warning letters or untitled letters; fines, injunctions or civil penalties; suspension or withdrawal of approvals; seizures or recalls of our products; total or partial suspension of production or distribution; administrative or judicially imposed sanctions; the FDA's refusal to grant pending or future clearances or approvals for our products; clinical holds; refusal to permit the import or export of our products; and criminal prosecution of us, our suppliers, or our employees.

Any of these actions could significantly and negatively affect supply of our products. If any of these events occurs, our reputation could be harmed, we could be exposed to product liability claims and we could lose customers and experience reduced sales and increased costs.

Our products, such as our AquaBeam Robotic System, may in the future be subject to product recalls that could harm our reputation, business and financial results.

Medical devices can experience performance problems in the field that require review and possible corrective action. The occurrence of component failures, manufacturing errors, software errors, design defects or labeling inadequacies affecting a medical device could lead to a government-mandated or voluntary recall by the device manufacturer, in particular when such deficiencies may endanger health. The FDA requires that certain classifications of recalls be reported to the FDA within 10 working days after the recall is initiated. Companies are required to maintain certain records of recalls, even if they are not reportable to the FDA. We may initiate voluntary recalls involving our AquaBeam Robotic System in the future that we determine do not require notification of the FDA. If the FDA disagrees with our determinations, they could require us to report those actions as recalls. Product recalls may divert management attention and financial resources, expose us to product liability or other claims, harm our reputation with customers and adversely impact our business, financial condition and results of operations.

We may be subject to regulatory or enforcement actions if we engage in improper marketing or promotion of our AquaBeam Robotic System.

Our educational and promotional activities and training methods must comply with FDA and other applicable laws, including the prohibition of the promotion of a medical device for a use that has not been cleared or approved by the FDA. Use of a device outside of its cleared or approved indications is known as “off-label” use. Physicians may use our AquaBeam Robotic System off-label in their professional medical judgment, as the FDA does not restrict or regulate a physician’s choice of treatment within the practice of medicine. However, if the FDA determines that our educational and promotional activities or training constitutes promotion of an off-label use, it could request that we modify our training or promotional materials or subject us to regulatory or enforcement actions, including the issuance of warning letters, untitled letters, fines, penalties, injunctions, or seizures, which could have an adverse impact on our reputation and financial results.

It is also possible that other federal, state or foreign enforcement authorities might take action if they consider our educational and promotional activities or training methods to constitute promotion of an off-label use, which could result in significant fines or penalties under other statutory authorities, such as laws prohibiting false claims for reimbursement. In that event, our reputation could be damaged, and adoption of the products could be impaired. Although our policy is to refrain from statements that could be considered off-label promotion of our AquaBeam Robotic System, the FDA or another regulatory agency could disagree and conclude that we have engaged in off-label promotion. It is also possible that other federal, state or foreign enforcement authorities might take action, including, but not limited to, through a whistleblower action under the federal civil False Claims Act, or FCA, if they consider our business activities constitute promotion of an off-label use, which could result in significant penalties, including, but not limited to, criminal, civil or administrative penalties, treble damages, fines, disgorgement, exclusion from participation in government healthcare programs, additional reporting requirements and oversight if we become subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws, and the curtailment or restructuring of our operations.

In addition, physicians may misuse our products or use improper techniques if they are not adequately trained, potentially leading to injury and an increased risk of product liability. If our devices are misused or used with improper technique, we may become subject to costly litigation by our customers or their patients. Product liability claims are expensive to defend and could divert our management’s attention, result in substantial damage awards against us, and harm our reputation.

Product liability claims are expensive to defend and could divert our management’s attention, result in substantial damage awards against us, and harm our reputation.

Legislative or regulatory reforms may make it more difficult and costly for us to obtain regulatory clearance or approval of any future products and to manufacture, market and distribute our products after clearance or approval is obtained.

From time to time, legislation is drafted and introduced in Congress that could significantly change the statutory provisions governing the regulatory approval, manufacture and marketing of regulated products or the

reimbursement thereof. In addition, the FDA may change its clearance and approval policies, adopt additional regulations or revise existing regulations, or take other actions, which may prevent or delay approval or clearance of our future products under development or impact our ability to modify our currently cleared products on a timely basis. Any new regulations or revisions or reinterpretations of existing regulations may impose additional costs or lengthen review times of planned or future products. It is impossible to predict whether legislative changes will be enacted or FDA regulations, guidance or interpretations changed, and what the impact of such changes, if any, may be.

Over the last several years, the FDA has proposed reforms to its 510(k) clearance process, and such proposals could include increased requirements for clinical data and a longer review period, or could make it more difficult for manufacturers to utilize the 510(k) clearance process for their products. For example, in November 2018, FDA officials announced forthcoming steps that the FDA intended to take to modernize the premarket notification pathway under Section 510(k) of the FDCA. Among other things, the FDA announced that it planned to develop proposals to drive manufacturers utilizing the 510(k) pathway toward the use of newer predicates. These proposals included plans to potentially sunset certain older devices that were used as predicates under the 510(k) clearance pathway, and to potentially publish a list of devices that have been cleared on the basis of demonstrated substantial equivalence to predicate devices that are more than 10 years old. The FDA also announced that it intended to finalize guidance to establish a premarket review pathway for "manufacturers of certain well-understood device types" as an alternative to the 510(k) clearance pathway and that such premarket review pathway would allow manufacturers to rely on objective safety and performance criteria recognized by the FDA to demonstrate substantial equivalence, obviating the need for manufacturers to compare the safety and performance of their medical devices to specific predicate devices in the clearance process.

More recently, in September 2019, the FDA issued revised final guidance describing an optional "safety and performance based" premarket review pathway for manufacturers of "certain, well-understood device types" to demonstrate substantial equivalence under the 510(k) clearance pathway by showing that such device meets objective safety and performance criteria established by the FDA, thereby obviating the need for manufacturers to compare the safety and performance of their medical devices to specific predicate devices in the clearance process. The FDA maintains a list device types appropriate for the "safety and performance based" pathway and continues to develop product-specific guidance documents that identify the performance criteria for each such device type, as well as recommended testing methods, where feasible. The FDA may establish performance criteria for classes of devices similar to ours, and it is unclear the extent to which such performance standards, if established, could impact our ability to obtain marketing authorization or otherwise create competition that may negatively affect our business.

In addition, FDA regulations and guidance are often revised or reinterpreted by the FDA in ways that may significantly affect our business and our products. Any new statutes, regulations or revisions or reinterpretations of existing regulations may impose additional costs or lengthen review times of any future products or make it more difficult to obtain clearance or approval for, manufacture, market or distribute our products. We cannot determine what effect changes in regulations, statutes, legal interpretation or policies, when and if promulgated, enacted or adopted may have on our business in the future. Such changes could, among other things, require additional testing prior to obtaining clearance or approval; changes to manufacturing methods; recall, replacement or discontinuance of our products; or additional record keeping.

The FDA's and other regulatory authorities' policies may change and additional government regulations may be promulgated that could prevent, limit or delay regulatory clearance or approval of our product candidates. We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative action, either in the United States or abroad. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may be subject to enforcement action, and we may not achieve or sustain profitability.

Clinical trials may be necessary to support future product submissions to the FDA. The clinical trial process is lengthy and expensive with uncertain outcomes, and often requires the enrollment of large numbers of patients, and suitable patients may be difficult to identify and recruit. Delays or failures in our clinical trials will prevent us from commercializing any modified or new products and will adversely affect our business, operating results and prospects.

Initiating and completing clinical trials necessary to support any future PMA applications, and additional safety and efficacy data beyond that typically required for a 510(k) clearance, for our possible future product candidates, will be time-consuming and expensive and the outcome uncertain. Moreover, the results of early clinical trials are not necessarily predictive of future results, and any product we advance into clinical trials may not have favorable results in later clinical trials. The results of preclinical studies and clinical trials of our products conducted to date and ongoing or future studies and trials of our current, planned or future products may not be predictive of the results of later clinical trials, and interim results of a clinical trial do not necessarily predict final results. Our interpretation of data and results from our clinical trials do not ensure that we will achieve similar results in future clinical trials. In addition, preclinical and clinical data are often susceptible to various interpretations and analyses, and many companies that have believed their products performed satisfactorily in preclinical studies and earlier clinical trials have nonetheless failed to replicate results in later clinical trials. Products in later stages of clinical trials may fail to show the desired safety and efficacy despite having progressed through nonclinical studies and earlier clinical trials. Failure can occur at any stage of clinical testing. Our clinical studies may produce negative or inconclusive results, and we may decide, or regulators may require us, to conduct additional clinical and non-clinical testing in addition to those we have planned.

The initiation and completion of any clinical studies may be prevented, delayed, or halted for numerous reasons. We may experience delays in our ongoing clinical trials for a number of reasons, which could adversely affect the costs, timing or successful completion of our clinical trials, including related to the following:

- we may be required to submit an investigational device exemption application, or IDE, to the FDA, which must become effective prior to commencing certain human clinical trials of medical devices, and the FDA may reject our IDE and notify us that we may not begin clinical trials;
- regulators and other comparable foreign regulatory authorities may disagree as to the design or implementation of our clinical trials;
- regulators and/or an Institutional Review Board, or IRB, or other reviewing bodies may not authorize us or our investigators to commence a clinical trial, or to conduct or continue a clinical trial at a prospective or specific trial site;
- we may not reach agreement on acceptable terms with prospective contract research organizations, or CROs, and clinical trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and trial sites;
- clinical trials may produce negative or inconclusive results, and we may decide, or regulators may require us, to conduct additional clinical trials or abandon product development programs;
- the number of subjects or patients required for clinical trials may be larger than we anticipate, enrollment in these clinical trials may be insufficient or slower than we anticipate, and the number of clinical trials being conducted at any given time may be high and result in fewer available patients for any given clinical trial, or patients may drop out of these clinical trials at a higher rate than we anticipate;
- our third-party contractors, including those manufacturing products or conducting clinical trials on our behalf, may fail to comply with regulatory requirements or meet their contractual obligations to us in a timely manner, or at all;
- we might have to suspend or terminate clinical trials for various reasons, including a finding that the subjects are being exposed to unacceptable health risks;
- we may have to amend clinical trial protocols or conduct additional studies to reflect changes in regulatory requirements or guidance, which we may be required to submit to an IRB and/or regulatory authorities for re-examination;

- regulators, IRBs, or other parties may require or recommend that we or our investigators suspend or terminate clinical research for various reasons, including safety signals or noncompliance with regulatory requirements;
- the cost of clinical trials may be greater than we anticipate;
- clinical sites may not adhere to the clinical protocol or may drop out of a clinical trial;
- we may be unable to recruit a sufficient number of clinical trial sites;
- regulators, IRBs, or other reviewing bodies may fail to approve or subsequently find fault with our manufacturing processes or facilities of third-party manufacturers with which we enter into agreement for clinical and commercial supplies, the supply of devices or other materials necessary to conduct clinical trials may be insufficient, inadequate or not available at an acceptable cost, or we may experience interruptions in supply;
- approval policies or regulations of the FDA or applicable foreign regulatory agencies may change in a manner rendering our clinical data insufficient for approval; and
- our current or future products may have undesirable side effects or other unexpected characteristics.

Any of these occurrences may significantly harm our business, financial condition and prospects. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical trials may also ultimately lead to the denial of regulatory approval of our product candidates.

Clinical trials must be conducted in accordance with the laws and regulations of the FDA and other applicable regulatory authorities' legal requirements, regulations or guidelines, and are subject to oversight by these governmental agencies and IRBs at the medical institutions where the clinical trials are conducted. Conducting successful clinical studies will require the enrollment of large numbers of patients, and suitable patients may be difficult to identify and recruit. Patient enrollment in clinical trials and completion of patient participation and follow-up depends on many factors, including the size of the patient population, the nature of the trial protocol, the attractiveness of, or the discomforts and risks associated with, the treatments received by enrolled subjects, the availability of appropriate clinical trial investigators, support staff, and proximity of patients to clinical sites and able to comply with the eligibility and exclusion criteria for participation in the clinical trial and patient compliance. For example, patients may be discouraged from enrolling in our clinical trials if the trial protocol requires them to undergo extensive post-treatment procedures or follow-up to assess the safety and effectiveness of our products or if they determine that the treatments received under the trial protocols are not attractive or involve unacceptable risks or discomforts.

We depend on our collaborators and on medical institutions and CROs to conduct our clinical trials in compliance with good clinical practice, or GCP, requirements. To the extent our collaborators or the CROs fail to enroll participants for our clinical trials, fail to conduct the study to GCP standards or are delayed for a significant time in the execution of trials, including achieving full enrollment, we may be affected by increased costs, program delays or both. In addition, clinical trials that are conducted in countries outside the United States may subject us to further delays and expenses as a result of increased shipment costs, additional regulatory requirements and the engagement of non-U.S. CROs, as well as expose us to risks associated with clinical investigators who are unknown to the FDA, and different standards of diagnosis, screening and medical care.

Development of sufficient and appropriate clinical protocols to demonstrate safety and efficacy are required and we may not adequately develop such protocols to support clearance and approval. Further, the FDA may require us to submit data on a greater number of patients than we originally anticipated and/or for a longer follow-up period or change the data collection requirements or data analysis applicable to our clinical trials. Delays in patient enrollment or failure of patients to continue to participate in a clinical trial may cause an increase in costs and delays in the approval and attempted commercialization of our products or result in the failure of the clinical trial. In addition, despite considerable time and expense invested in our clinical trials, the FDA may not consider our data adequate to

demonstrate safety and efficacy. Such increased costs and delays or failures could adversely affect our business, operating results and prospects.

If the third parties on which we rely to conduct our clinical trials and to assist us with pre-clinical development do not perform as required or expected, we may not be able to obtain regulatory clearance or approval for or commercialize our products.

We may not have the ability to independently conduct our pre-clinical and clinical trials for our future products and we may need to rely on third parties, such as CROs, medical institutions, collaborators, clinical investigators and contract laboratories to conduct such trials. Nevertheless, we are responsible for ensuring that each of our studies is conducted in accordance with applicable protocol, legal and regulatory requirements and scientific standards, and our reliance on third parties does not relieve us of our regulatory responsibilities. We and these third parties are required to comply with GCP requirements, which are regulations and guidelines enforced by the FDA and comparable foreign regulatory authorities for products in clinical development. Regulatory authorities enforce these GCP requirements through periodic inspections of trial sponsors, principal investigators and trial sites.

If we or any of these third parties fail to comply with applicable GCP regulations, the clinical data generated in our clinical trials may be deemed unreliable and the FDA or comparable foreign regulatory authorities may require us to perform additional clinical trials before clearing or approving our marketing applications. We cannot assure you that, upon inspection, such regulatory authorities will determine that any of our future clinical trials complies with the GCP regulations. To the extent our collaborators or the CROs fail to enroll participants for our clinical trials, fail to conduct the study to GCP standards or are delayed for a significant time in the execution of trials, including achieving full enrollment, including on account of the outbreak of infectious disease, such as the COVID-19 pandemic, or otherwise, we may be affected by increased costs, program delays or both, any resulting data may be unreliable or unusable for regulatory purposes, and we may be subject to enforcement action.

If these third parties do not successfully carry out their contractual duties or regulatory obligations or meet expected deadlines, if these third parties need to be replaced, or if the quality or accuracy of the data they obtain is compromised due to the failure to adhere to our clinical protocols or regulatory requirements or for other reasons, our pre-clinical development activities or clinical trials may be extended, delayed, suspended or terminated, and we may not be able to obtain regulatory approval for, or successfully commercialize, our products on a timely basis, if at all, and our business, operating results and prospects may be adversely affected.

Changes in funding or disruptions at the FDA and other government agencies caused by funding shortages or global health concerns could hinder their ability to hire and retain key leadership and other personnel, or otherwise prevent new or modified products from being developed, approved or commercialized in a timely manner or at all, or otherwise prevent those agencies from performing normal business functions on which the operation of our business may rely, which could negatively impact our business.

The ability of the FDA to review and approve new products can be affected by a variety of factors, including government budget and funding levels, ability to hire and retain key personnel and accept the payment of user fees, and statutory, regulatory, and policy changes, and other events that may otherwise affect the FDA's ability to perform routine functions. Average review times at the agency have fluctuated in recent years as a result. In addition, government funding of other government agencies on which our operations may rely, including those that fund research and development activities is subject to the political process, which is inherently fluid and unpredictable.

Disruptions at the FDA and other agencies may also slow the time necessary for new product applications to be reviewed and/or approved by necessary government agencies, which would adversely affect our business. For example, over the last several years, including for 35 days beginning on December 22, 2018, the U.S. government has shut down several times and certain regulatory agencies, such as the FDA, have had to furlough critical FDA employees and stop critical activities.

Separately, in response to the COVID-19 pandemic, on March 10, 2020, the FDA announced its intention to postpone inspections of foreign manufacturing facilities and products, and on March 18, 2020, the FDA temporarily postponed routine surveillance inspections of domestic manufacturing facilities. Subsequently, on July 10, 2020, the

FDA announced its intention to resume certain on-site inspections of domestic manufacturing facilities subject to a risk-based prioritization system. The FDA intends to use this risk-based assessment system to identify the categories of regulatory activity that can occur within a given geographic area, ranging from mission critical inspections to resumption of all regulatory activities. Other regulatory authorities may adopt similar restrictions or other policy measures in response to the COVID-19 pandemic. If a prolonged government shutdown occurs, or if global health concerns continue to prevent the FDA or other regulatory authorities from conducting business as usual or conducting inspections, reviews or other regulatory activities, it could significantly impact the ability of the FDA to timely review and process our regulatory submissions, which could have a material adverse effect on our business.

Our employees, collaborators, independent contractors and consultants may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements.

We are exposed to the risk that our employees, collaborators, independent contractors and consultants may engage in fraudulent or other illegal activity with respect to our business. Misconduct by these persons could include intentional, reckless and/or negligent conduct or unauthorized activity that violates:

- FDA requirements, including those laws requiring the reporting of true, complete and accurate information to the FDA authorities;
- manufacturing standards;
- federal and state healthcare fraud and abuse laws and regulations; or
- laws that require the true, complete and accurate reporting of financial information or data.

In particular, sales, marketing and business arrangements in the healthcare industry are subject to extensive laws and regulations intended to prevent fraud, kickbacks, self-dealing and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, sales commission, customer incentive programs and other business arrangements. Misconduct by these parties could also involve individually identifiable information, including, without limitation, the improper use of information obtained in the course of clinical trials, which could result in regulatory sanctions and serious harm to our reputation. Any incidents or any other conduct that leads to an employee, contractor, or other agent, or our company, receiving an FDA debarment or exclusion by OIG could result in penalties, a loss of business from third parties, and severe reputational harm.

It is not always possible to identify and deter misconduct by our employees and other agents, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of civil, criminal and administrative penalties, treble damages, monetary fines, disgorgement, imprisonment, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, additional reporting requirements and oversight if we become subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws, and curtailment of our operations.

We must comply with environmental and occupational safety laws.

Our research and development programs as well as our manufacturing operations involve the controlled use of hazardous materials. Accordingly, we are subject to federal, state and local laws, as well as the laws of foreign countries, governing the use, handling and disposal of these materials. In the event of an accident or failure to comply with environmental or occupational safety laws, we could be held liable for resulting damages, and any such liability could exceed our insurance coverage.

Risks Related to Our Intellectual Property

We have to obtain, maintain and protect our intellectual property and failure to do so may adversely impact our competitive position.

Our commercial success and ability to compete will depend in part in our ability to obtain, maintain and enforce issued patents, trademark and other intellectual property rights and proprietary technology in the United States and elsewhere. If we cannot adequately obtain, maintain and enforce our intellectual property rights and proprietary technology, competitors may be able to use our technologies or the goodwill we have acquired in the marketplace and erode or negate any competitive advantage we may have and our ability to compete, which could harm our business and ability to achieve profitability and/or cause us to incur significant expenses.

We rely on a combination of contractual provisions, confidentiality procedures and patent, trade secret, copyright and trademark laws to protect our proprietary technology, products, services, brands, trade secrets, know-how and data and prevent others from duplicating our AquaBeam Robotic System or its disposable components, and our other current and future products, services and technology. However, these legal means afford only limited protection and may not:

- prevent our competitors from duplicating our AquaBeam Robotic System or its disposable components, and our other current and future products;
- prevent our competitors from gaining access to our proprietary information and technology; or
- permit us to gain or maintain a competitive advantage.

Our success will depend, in part, on preserving our trade secrets, maintaining the security of our data and know-how and obtaining, maintaining and enforcing other intellectual property rights. We may not be able to obtain, maintain and/or enforce our intellectual property or other proprietary rights necessary to our business or in a form that provides us with a competitive advantage.

Failure to obtain, maintain and/or enforce intellectual property rights necessary to our business and failure to protect, monitor and control the use of our intellectual property rights could negatively impact our ability to compete and cause us to incur significant expenses. The intellectual property laws and other statutory and contractual arrangements in the United States and other jurisdictions we depend upon may not provide sufficient protection in the future to prevent the infringement, use, violation or misappropriation of our patents, trademarks, data, technology and other intellectual property rights, products and services, and may not provide an adequate remedy if our intellectual property rights are infringed, misappropriated or otherwise violated.

We rely in part on our portfolio of issued patents and pending patent applications in the United States and other countries to protect our intellectual property and competitive position. However, our patent applications may not result in issued patents, and any patents that are issued may not provide meaningful protection against competitors or competitive technologies. Further, the examination process may require us to narrow the claims for our pending patent applications, which may limit the scope of patent protection that may be obtained if these applications issue. It is also possible that we will fail to identify patentable aspects of inventions made in the course of our development, manufacture and commercialization activities before it is too late to obtain patent protection on them. If we fail to timely file for a patent in any jurisdiction, we may be precluded from doing so at a later date. Although we enter into non-disclosure and confidentiality agreements with parties who have access to patentable aspects of our research and development output, such as our employees, corporate collaborators, outside scientific collaborators, suppliers, consultants, advisors and other third parties, any of these parties may breach the agreements and disclose such output before a patent application is filed, thereby jeopardizing our ability to seek patent protection. Furthermore, publications of discoveries in the scientific literature often lag behind the actual discoveries, and patent applications in the United States and other jurisdictions are typically not published until 18 months after filing, or in some cases not at all. Therefore, we cannot be certain that we were the first to make the inventions claimed in any of our patents or pending patent applications, or that we were the first to file for patent protection of such inventions. Moreover, should we become a licensee of a third party’s patents or patent applications, depending on the terms of any future in-licenses to which we may become a party, we may not have

the right to control the preparation, filing and prosecution of patent applications, or to maintain or enforce the patents, covering technology in-licensed from third parties. Therefore, these patents and patent applications may not be prosecuted, maintained and/or enforced in a manner consistent with the best interests of our business. While we generally apply for patents in those countries where we intend to make, have made, use, import, offer to sell or sell patented products, we may not accurately predict all of the countries where patent protection will ultimately be desirable. Furthermore, the issuance of a patent does not give us the right to practice the patented invention. Third parties may have blocking patents that could prevent us from manufacturing and/or commercializing our own products or services, or otherwise practicing our own technology. Any of these outcomes could impair our ability to prevent competition from third parties, which may have an adverse impact on our business.

The patent positions of medical device companies, including our patent position, may involve complex legal and factual questions that have been the subject of much litigation in recent years, and, therefore, the scope of any patent claims that we have or may obtain cannot be predicted with certainty. Accordingly, we cannot provide any assurances about which of our patent applications will issue, the breadth of any resulting patent, whether any of the issued patents will be found to be infringed, invalid or unenforceable or will be threatened or challenged by third parties, that any of our issued patents have, or that any of our currently pending or future patent applications that mature into issued patents will include, claims with a scope sufficient to protect our products and services. Our pending and future patent applications may not result in the issuance of patents or, if issued, may not issue in a form that will be advantageous to us. The coverage claimed in a patent application can be significantly reduced before the patent is issued. The scope of a patent may also be reinterpreted after issuance. The rights that may be granted under our future issued patents may not provide us with the proprietary protection or competitive advantages we are seeking. We cannot offer any assurances that the breadth of our granted patents will be sufficient to stop a competitor from developing, manufacturing and commercializing a product or a service in a non-infringing manner that would be competitive with one or more of our products or services, or otherwise provide us with any competitive advantage. Furthermore, any successful challenge to these patents or any other patents owned by or licensed to us after patent issuance could deprive us of rights necessary for our commercial success. Further, there can be no assurance that we will have adequate resources to enforce our patents.

Patents have a limited lifespan. In the United States, the natural expiration of a utility patent is generally 20 years from the earliest effective non-provisional filing date. Further, if we encounter delays in any future regulatory approvals, the period of time during which we could market a product or a service under patent protection could be reduced, and, given the amount of time required for the development, testing and regulatory review of planned or future products or services, patents protecting such products or services might expire before or shortly after such products or services are commercialized. As a result, our patent rights may not provide us with sufficient rights to exclude others from manufacturing or commercializing products or services similar or identical to ours.

If we are unable to obtain, maintain and enforce our issued patent, trademarks and other intellectual property rights related to our products, services or technology, or if the scope of the issued patents, trademarks or other intellectual property right protection is insufficient, our competitors could develop, manufacture and commercialize products, services or technology similar or superior to ours, and our competitive position may be adversely affected. In addition, the patent prosecution process is expensive, time-consuming and complex, and we may not be able to file, prosecute, maintain, enforce or license all necessary or desirable patent applications at a reasonable cost or in a timely manner.

Some of our patents and patent applications may in the future be co-owned with third parties. If we are unable to obtain an exclusive license to any such third-party co-owners' interest in such patents or patent applications, such co-owners may be able to license their rights to other third parties, including our competitors, and our competitors could market competing products, services and technology. In addition, we may need the cooperation of any such co-owners of our patents in order to enforce such patents against third parties, and such cooperation may not be provided to us.

The U.S. federal government retains certain rights in inventions produced with its financial assistance under the Bayh-Dole Act. The federal government retains a "nonexclusive, nontransferable, irrevocable, paid-up license" for its own benefit. The Bayh-Dole Act also provides federal agencies with "march-in rights." March-in rights allow the government, in specified circumstances, to require the patent owner or successors in title to the patent to grant a

“nonexclusive, partially exclusive, or exclusive license” to a “responsible applicant or applicants.” If the patent owner refuses to do so, the government may grant the license to itself. We cannot be sure that if we acquire intellectual property rights in the future it will be free from government rights or regulations pursuant to the Bayh-Dole Act. If, in the future, we own, co-own or license in technology that is critical to our business that is developed in whole or in part with federal funds subject to the Bayh-Dole Act, our ability to enforce or otherwise exploit patents covering such technology may be adversely affected. Any of the foregoing could have a material adverse effect on our business, financial condition and results of operations.

Additionally, while software and other of our proprietary works may be protected under copyright law, we have chosen not to register any copyrights in these works, and instead, primarily rely on protecting our software as a trade secret. In order to bring a copyright infringement lawsuit in the United States, the copyright must be registered. Accordingly, the remedies and damages available to us for unauthorized use of our software may be limited.

Obtaining and maintaining patent protection depends on compliance with various procedural, document submission, fee payment and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements.

The U.S. Patent and Trademark Office, or USPTO, and various foreign governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. In addition, periodic maintenance fees, renewal fees, annuity fees and various other government fees on issued patents often must be paid to the USPTO and foreign patent agencies over the lifetime of the patent and/or applications and any patent rights we may obtain in the future. While an unintentional lapse of a patent or patent application can in many cases be cured by payment of a late fee or by other means in accordance with the applicable rules, there are situations in which non-compliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. Non-compliance events that could result in abandonment or lapse of a patent or patent application include, but are not limited to, failure to respond to official actions within prescribed time limits, non-payment of fees and failure to properly legalize and submit formal documents. If we fail to maintain the patents and patent applications covering our products or services, we may not be able to stop a competitor from marketing products or services that are the same as or similar to our products or services, which would have a material adverse effect on our business, financial condition and results of operations.

We may become involved in lawsuits to protect or enforce our patents and other intellectual property rights, which could be expensive, time-consuming and unsuccessful, and if unsuccessful, the commercial value of our products and services will be adversely affected and our competitive position may be harmed.

Third parties, including our competitors, may currently, or in the future, infringe, misappropriate or otherwise violate our issued patents or other intellectual property rights, and we may file lawsuits or initiate other proceedings to protect or enforce our patents or other intellectual property rights, which could be expensive, time-consuming and unsuccessful. While we are not aware of any unauthorized use of our intellectual property rights, we do not regularly conduct monitoring for unauthorized use at this time. In the future, we may, from time to time, seek to analyze our competitors’ products and services, or seek to enforce our rights against potential infringement, misappropriation or violation of our intellectual property rights. The steps we have taken to protect our proprietary rights may not be adequate to enforce our rights as against such infringement, misappropriation or violation of our intellectual property rights. In certain circumstances it may not be practicable or cost-effective for us to enforce our intellectual property rights fully, particularly in certain developing countries or where the initiation of a claim might harm our business relationships. We may also be hindered or prevented from enforcing our rights with respect to a government entity or instrumentality because of the doctrine of sovereign immunity. Our ability to enforce our patent or other intellectual property rights depends on our ability to detect infringement. It may be difficult to detect infringers who do not advertise the components or methods that are used in connection with their products and services. Moreover, it may be difficult or impossible to obtain evidence of infringement in a competitor’s or potential competitor’s product or service. Thus, we may not be able to detect unauthorized use of, or take appropriate steps to enforce, our intellectual property rights. Any inability to meaningfully enforce our intellectual property rights could harm our ability to compete and reduce demand for our products and services.

In the future, we may become involved in lawsuits to protect or enforce our intellectual property rights. An adverse result in any litigation proceeding could harm our business. In any lawsuit we bring to enforce our intellectual property rights, a court may refuse to stop the other party from using the technology at issue on grounds that our intellectual property rights do not cover the technology in question. If we initiate legal proceedings against a third party to enforce a patent covering a product or a service, the defendant could counterclaim that such patent is invalid or unenforceable. In patent litigation in the United States, defendant counterclaims alleging invalidity or unenforceability are common, and there are numerous grounds upon which a third party can assert invalidity or unenforceability of a patent. Any claims we assert against perceived infringers could also provoke these parties to assert counterclaims against us alleging that we infringe, misappropriate or otherwise violate their intellectual property rights. Grounds for a validity challenge could be an alleged failure to meet any of several statutory requirements, including lack of patentable subject matter, novelty, obviousness, or non-enablement. Grounds for an unenforceability assertion could be an allegation that someone connected with prosecution of the patent withheld relevant information from USPTO, or made a misleading statement, during prosecution. Mechanisms for such challenges include re-examination, post-grant review, inter partes review, interference proceedings, derivation proceedings, and equivalent proceedings in foreign jurisdictions (e.g., opposition proceedings).

Decisions by courts and governmental patent agencies may introduce uncertainty in the enforceability or scope of patents and other intellectual properties owned by us. A court may decide that a patent or other intellectual property right of ours is invalid or unenforceable, in whole or in part, construe the patent's claims or other intellectual property narrowly or refuse to stop the other party from using the technology at issue on the grounds that our patents or other intellectual property do not cover the technology in question. An adverse result in any litigation proceeding could put one or more of our patents at risk of being invalidated or interpreted narrowly.

Furthermore, even if our patents or other intellectual property rights are found to be valid and infringed, a court may refuse to grant injunctive relief against the infringer and instead grant us monetary damages and/or ongoing royalties. Such monetary compensation may be insufficient to adequately offset the damage to our business caused by the infringer's competition in the market. An adverse result in any litigation or administrative proceeding could put one or more of our patents or other intellectual property rights at risk of being invalidated or interpreted narrowly, which could adversely affect our competitive business position, financial condition and results of operations. Moreover, even if we are successful in any litigation, we may incur significant expense in connection with such proceedings, and the amount of any monetary damages may be inadequate to compensate us for damage as a result of the infringement and the proceedings. Even if resolved in our favor, litigation or other legal proceedings relating to intellectual property claims may cause us to incur significant expenses and could distract our management and other personnel from their normal responsibilities. In addition, there could be public announcements of the results of hearings, motions or other interim proceedings or developments, and if securities analysts or investors perceive these results to be negative, it could have a substantial adverse effect on our common stock price. Such litigation or proceedings could substantially increase our operating losses and reduce the resources available for development activities or any future sales, marketing or distribution activities. We may not have sufficient financial or other resources to conduct such litigation or proceedings adequately. Some of our competitors may be able to sustain the costs of such litigation or proceedings more effectively than we can because of their greater financial resources and more mature and developed intellectual property portfolios. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could have a material adverse effect on our ability to compete in the marketplace. Any of the foregoing could have a material adverse effect on our business, financial condition or results of operations.

We may be unsuccessful in licensing or acquiring intellectual property rights from third parties that may be necessary to develop, manufacture and/or commercialize our current and/or future products or services.

A third party may hold intellectual property rights, including patent rights, that are important or necessary to the development, manufacture and/or commercialization of our current and/or future products or services, in which case we would be need to acquire or obtain a license to such intellectual property rights from such third party. A third party that perceive us to be a competitor may be unwilling to assign or license its intellectual property rights to us. In addition, the licensing or acquisition of third party intellectual property rights is a competitive area, and other companies may also pursue similar strategies to license or acquire such third party's intellectual property rights. Some of these companies may be established and may have a competitive advantage over us due to their size, capital

resources and greater development, manufacture and commercialization capabilities. We also may be unable to license or acquire third party intellectual property rights on commercially reasonable terms that would allow us to make an appropriate return on our investment, or at all, or we may be unable to obtain any such license or acquisition at all. If we are unable to successfully obtain rights to necessary third party intellectual property rights, we may not be able to develop, manufacture or commercialize our current and/or future products or services, which could have a material adverse effect on our business, financial condition and results of operations.

We may be subject to claims challenging the ownership or inventorship of our patents and other intellectual property and, if unsuccessful in any of these proceedings, we may be required to obtain licenses from third parties, which may not be available on commercially reasonable terms, or at all, or to cease the development, manufacture and commercialization of our AquaBeam Robotic System and our other current and future products.

We may be subject to claims that current or former employees, collaborators or other third parties have an interest in our current or future patents, patent applications, trade secrets or other intellectual property rights as an inventor or co-inventor. For example, we may have inventorship disputes arise from conflicting obligations of employees, consultants or others who are involved in developing our AquaBeam Robotic System or our other current or future products, services or technology. Although it is our policy to require our employees and contractors who may be involved in the conception or development of intellectual property rights to execute agreements assigning such intellectual property rights to us, we may be unsuccessful in executing such an agreement with each party who, in fact, conceives or develops intellectual property rights that we regard as our own, and we cannot be certain that our agreements with such parties will be upheld in the face of a potential challenge, or that they will not be breached, for which we may not have an adequate remedy. The assignment of intellectual property rights may not be self-executing, or the assignment agreements may be breached, and litigation may be necessary to defend against these and other claims challenging inventorship or ownership. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights, such as exclusive ownership of, or right to use, valuable intellectual property rights, and other owners may be able to license their rights to other third parties, including our competitors. Such an outcome could have a material adverse effect on our business. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees.

Additionally, we may be subject to claims from third parties challenging ownership interest in or inventorship of intellectual property rights we regard as our own, based on claims that our agreements with employees or consultants obligating them to assign their intellectual property rights to us are ineffective or in conflict with prior or competing contractual obligations to assign inventions and intellectual property rights to another employer, to a former employer, or to another person or entity. Litigation may be necessary to defend against such claims, and it may be necessary or we may desire to obtain a license to such third party's intellectual property rights to settle any such claim, however, there can be no assurance that we would be able to obtain such license on commercially reasonable terms, if at all . If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights, such as exclusive ownership of, or right to use, intellectual property that is important to our AquaBeam Robotic System and our other current and future products, services or technology. If we were to lose exclusive ownership of such intellectual property, other owners may be able to license their rights to other third parties, including our competitors. We also may be required to obtain and maintain licenses from third parties, including parties involved in any such disputes. Such licenses may not be available on commercially reasonable terms, or at all, or may be non-exclusive. If we are unable to obtain and maintain such licenses, we may need to cease the development, manufacture and commercialization of our AquaBeam Robotic System, or our other current or future products, services and technologies, and we could be prohibited from using our other technologies, features or intellectual property rights that are essential to our products or services, if such technologies or features are found to incorporate or be derived from the trade secrets or other proprietary information of another person or entity, including another or former employers. An inability to incorporate technologies, features or other intellectual property rights that are important or essential to our products or services could have a material adverse effect on our business, financial condition, results of operations, and competitive position, and may prevent us from developing, manufacturing and/or selling our products or services. In addition, we may lose valuable intellectual property rights or personnel. Even if we are successful in defending against these claims, litigation could result in substantial costs

and could be a distraction to management and our employees. Any litigation or the threat thereof may adversely affect our ability to hire employees or contract with independent sales representatives. A loss of key personnel or their work product could hamper or prevent our ability to develop, manufacture and/or commercialize our products or services, which could materially and adversely affect our business, financial condition and results of operations. The loss of exclusivity or the narrowing of our patent claims could limit our ability to stop others from using or commercializing similar or identical technology and products. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees. Any of the foregoing could have a material adverse effect on our business, financial condition and results of operations.

If we are unable to protect the confidentiality of our trade secrets, our business and competitive position may be harmed.

In addition to seeking patent protection for our AquaBeam Robotic System and our other current and future products and services, we also rely upon unpatented trade secrets, know-how and continuing technological innovation to develop and maintain a competitive position. We seek to protect such proprietary information, in part, through confidentiality agreements with our employees, collaborators, contractors, advisors, consultants and other third parties and invention assignment agreements with our employees. We also have agreements with some of our consultants that require them to assign to us any inventions created as a result of their working with us. The confidentiality agreements are designed to protect our proprietary information and, in the case of agreements or clauses containing invention assignment, to grant us ownership of technologies that are developed through a relationship with employees or third parties.

We cannot guarantee that we have entered into such agreements with each party that has or may have had access to our trade secrets or proprietary information and we may not enter into such agreements with all employees, consultants and third parties who have been involved in the development of our intellectual property rights. Although we generally require all of our employees, consultants, advisors and any third parties who have access to our proprietary know-how, information, or technology to enter into confidentiality agreements, we cannot provide any assurances that all such agreements have been duly executed. In addition, despite the protections we place on our intellectual property or other proprietary rights, monitoring unauthorized use and disclosure of our intellectual property rights by employees, consultants and other third parties who have access to such intellectual property or other proprietary rights is difficult, and we do not know whether the steps we have taken to protect our intellectual property or other proprietary rights will be adequate. Therefore, we may not be able to prevent the unauthorized disclosure or use of our technical knowledge or other trade secrets by such employees, consultants, advisors or third parties, despite the existence generally of these confidentiality restrictions. These agreements may not provide meaningful protection against the unauthorized use or disclosure of our trade secrets, know-how or other proprietary information in the event the unwanted use is outside the scope of the provisions of the contracts or in the event of any unauthorized use, misappropriation, or disclosure of such trade secrets, know-how, or other proprietary information. There can be no assurances that such employees, consultants, advisors or third parties will not breach their agreements with us, that we will have adequate remedies for any breach, or that our trade secrets will not otherwise become known or independently developed by third parties, including our competitors. If any of our trade secrets were to be lawfully obtained or independently developed by a competitor, we would have no right to prevent them, or those to whom they communicate it, from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to or independently developed by a competitor, our competitive position would be harmed. The exposure of our trade secrets and other proprietary information would impair our competitive advantages and could have a material adverse effect on our business, financial condition and results of operations. In particular, a failure to protect our proprietary rights may allow competitors to copy our technology, which could adversely affect our pricing and market share.

Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, some courts inside and outside the United States are less willing or unwilling to protect trade secrets. If any of our trade secrets were to be lawfully obtained or independently developed by a competitor or other third party, we would have no right to prevent them from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to, or independently developed by, a competitor or other third party, our competitive position would be materially and adversely harmed. Furthermore, we expect these trade secrets, know-how and proprietary information to over time

be disseminated within the industry through independent development, the publication of journal articles describing the methodology, the movement of personnel within the industry and from academic to industry scientific positions.

We also seek to preserve the integrity and confidentiality of our data and trade secrets by maintaining physical security of our premises and physical and electronic security of our information technology systems. While we have confidence in these individuals, organizations and systems, agreements or security measures may be breached, and we may not have adequate remedies for any breach. In addition, our trade secrets may otherwise become known, or be independently discovered by, competitors. To the extent that our employees, consultants, contractors or collaborators use intellectual property owned by others in their work for us, disputes may arise as to the rights in related or resulting know-how and inventions could have a material adverse effect on our competitive position, business, financial condition, results of operations and prospects.

We may be subject to claims that we or our employees have misappropriated the intellectual property of a third party, including trade secrets or know-how, or are in breach of non-competition or non-solicitation agreements with our competitors and third parties may claim an ownership interest in intellectual property we regard as our own.

Many of our employees and consultants were previously employed at or engaged by other medical device, biotechnology or pharmaceutical companies, including our competitors or potential competitors. Some of these employees, consultants and contractors, may have executed proprietary rights, non-disclosure and non-competition agreements in connection with such previous employment. Although we try to ensure that our employees and consultants do not use the intellectual property, proprietary information, know-how or trade secrets of others in their work for us, we may be subject to claims that we or these individuals have, inadvertently or otherwise, misappropriated the intellectual property or disclosed the alleged trade secrets or other proprietary information, of these former employers or competitors.

Additionally, we may be subject to claims from third parties challenging our ownership interest in intellectual property we regard as our own, based on claims that our employees or consultants have breached an obligation to assign inventions to another employer, to a former employer, or to another person or entity. Litigation may be necessary to defend against any other claims, and it may be necessary or we may desire to enter into a license to settle any such claim; however, there can be no assurance that we would be able to obtain a license on commercially reasonable terms, if at all. If our defense to those claims fails, in addition to paying monetary damages, a court could prohibit us from using technologies or features that are essential to our AquaBeam Robotic System or our other current and future products or services, if such technologies or features are found to incorporate or be derived from the trade secrets or other proprietary information of the former employers.

An inability to incorporate technologies or features that are important or essential to our product could have a material adverse effect on our business, financial condition and results of operations, and may prevent us from selling our AquaBeam Robotic System or our other current and future products or services. In addition, we may lose valuable intellectual property rights or personnel. Even if we are successful in defending against these claims, litigation could result in substantial costs and could be a distraction to management. Any litigation or the threat thereof may adversely affect our ability to hire employees or contract with independent sales representatives. A loss of key personnel or their work product could hamper or prevent our ability to commercialize our product, which could have an adverse effect on our business, financial condition and results of operations.

Changes in patent law could diminish the value of patents in general, thereby impairing our ability to protect our existing and future products or services, and could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our current or future patents.

Our ability to obtain patents and the breadth of any patents obtained is uncertain in part because, to date, some legal principles remain unresolved, and there has not been a consistent policy regarding the breadth or interpretation of claims allowed in patents in the United States and other countries. Changes in either patent laws or in interpretations of patent laws in the United States and other countries may diminish the value of our intellectual property rights or narrow the scope of our patent protection, which in turn could diminish the commercial value of our products and services.

Patent reform legislation may pass in the future that could lead to additional uncertainties and increased costs surrounding the prosecution, enforcement and defense of our patents and applications. Furthermore, the U.S. Supreme Court and the U.S. Court of Appeals for the Federal Circuit have made, and will likely continue to make, changes in how the patent laws of the United States are interpreted.

The United States Supreme Court has ruled on several patent cases in recent years, either narrowing the scope of patent protection available in certain circumstances or weakening the rights of patent owners in certain situations. In addition to increasing uncertainty with regard to our ability to obtain patents in the future, this combination of events has created uncertainty with respect to the value of patents, once obtained. Depending on actions by the United States Congress, the federal courts and the USPTO, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce patents that we own or that we might obtain or license in the future. An inability to obtain, enforce, and defend patents covering our proprietary technologies would materially and adversely affect our business prospects and financial condition.

Similarly, foreign courts have made, and will likely continue to make, changes in how the patent laws in their respective jurisdictions are interpreted. We cannot predict future changes in the interpretation of patent laws or changes to patent laws that might be enacted into law by U.S. and foreign legislative bodies. Those changes may materially affect our patents or patent applications and our ability to obtain additional patent protection in the future. Further, the laws of some foreign countries do not protect proprietary rights to the same extent or in the same manner as the laws of the United States. In addition, any protection afforded by foreign patents may be more limited than that provided under U.S. patent and intellectual property laws. We may encounter significant problems in enforcing and defending our intellectual property both in the United States and abroad. For example, if the issuance in a given country of a patent covering an invention is not followed by the issuance in other countries of patents covering the same invention, or if any judicial interpretation of the validity, enforceability or scope of the claims or the written description or enablement in a patent issued in one country is not similar to the interpretation given to the corresponding patent issued in other countries, our ability to protect our intellectual property rights in those countries may be limited. Changes in either patent laws or in interpretations of patent laws in the United States and other countries may materially diminish the value of our intellectual property rights or narrow the scope of our patent protection. We cannot predict future changes in the interpretation of patent laws or changes to patent laws that might be enacted into law by U.S. and foreign legislative bodies. Those changes may materially affect our patents or patent applications and our ability to obtain additional patent protection in the future. Any of the foregoing could have a material adverse effect on our competitive position, business, financial condition, results of operations and prospects.

If our trademarks and tradenames are not adequately protected, then we may not be able to build name recognition in our markets and our business may be adversely affected.

We rely on our trademarks, trade names and brand names to distinguish our products and services from the products and services of our competitors, and have registered or applied to register many of these trademarks in the United States and certain countries outside the United States. There can be no assurance that our trademark applications will be approved for registration. During trademark registration proceedings, we may receive rejections. Although we are given an opportunity to respond to those rejections, we may be unable to overcome such rejections. In addition, in proceedings before the USPTO and comparable agencies in many foreign jurisdictions, third parties may also oppose our trademark applications and may seek to cancel trademark registrations or otherwise challenge our use of the trademarks. Opposition or cancellation proceedings may be filed against our trademark filings in these agencies, and such filings may not survive such proceedings. While we may be able to continue the use of our trademarks in the event registration is not available, particularly in the United States, where trademark rights are acquired based on use and not registration, third parties may be able to enjoin the continued use of our trademarks if such parties are able to successfully claim infringement in court.

Our trademarks or trade names may be challenged, invalidated, infringed, circumvented and circumvented by third parties, and our trademarks could also be diluted, declared generic or determined to be violating or infringing on other marks. We may not be able to protect our rights to these trademarks and trade names, which we need to build name recognition among potential partners and customers in our markets of interest. If any of the foregoing occurs, we could be forced to re-brand our products or services, resulting in loss of brand recognition and requiring

us to devote resources to advertising and marketing new brands, and suffer other competitive harm. Third parties may also adopt trademarks similar to ours, which could harm our brand identity and lead to market confusion. Further, there can be no assurance that competitors will not infringe our trademarks or that we will have adequate resources to enforce our trademarks. At times, competitors or other third parties may adopt trade names or trademarks similar to ours, thereby impeding our ability to build brand identity and possibly leading to market confusion. Certain of our current or future trademarks may become so well known by the public that their use becomes generic and they lose trademark protection. Over the long term, if we are unable to establish name recognition based on our trademarks and trade names, then we may not be able to compete effectively and our business may be adversely affected. Any of the foregoing could have a material adverse effect on our competitive position, business, financial condition, operating results and prospects.

We may become a party to intellectual property litigation or administrative proceedings that could be expensive, time-consuming, unsuccessful, and could interfere with our ability to sell and market our products or services.

Our commercial success depends, in part, on our ability to develop, manufacture, market and sell our products and services and use our proprietary technologies without infringing, misappropriating or otherwise violating the proprietary rights and intellectual property of third parties. The medical device industry has been characterized by extensive litigation regarding patents, trademarks, trade secrets, and other intellectual property rights, and companies in the industry have used intellectual property litigation to gain a competitive advantage. While we take steps to ensure that we do not infringe upon, misappropriate or otherwise violate the intellectual property rights of others, there may be other more pertinent rights of which we are presently unaware.

Third parties may initiate legal proceedings alleging that we are infringing, misappropriating or otherwise violating their intellectual property rights, the outcome of which would be uncertain and could have a negative impact on the success of our business. It is possible that U.S. and foreign patents and pending patent applications controlled by third parties may be alleged to cover our products and services, or that we may be accused of misappropriating third parties' trade secrets or infringing third parties' trademarks. We may in the future become party to, or be threatened with, adversarial proceedings or litigation regarding intellectual property rights with respect to our products or services, including interference proceedings, post grant review and inter partes review before the USPTO or equivalent foreign regulatory authority. Furthermore, we may also become involved in other proceedings, such as reexamination, derivation or opposition proceedings before the USPTO or other jurisdictional body relating to our intellectual property rights or the intellectual property rights of others. Third parties may assert infringement claims against us based on existing patents or patents that may be granted in the future, regardless of their merit. Because patent applications can take many years to issue and because publication schedules for pending applications vary by jurisdiction, there may be applications now pending of which we are unaware and which may result in issued patents, which our current or future products or services infringe. Also, because the claims of published patent applications can change between publication and patent grant, there may be published patent applications that may ultimately issue with claims that we infringe. There is a risk that third parties may choose to engage in litigation with us to enforce or to otherwise assert their patent rights against us. Even if we believe such claims are without merit, a court of competent jurisdiction could hold that these third party patents are valid and enforceable, and infringed by the use of our products and/or services, which could have a negative impact on the commercial success of our current and any future products or services. If we were to challenge the validity of any such third party U.S. patent in federal court, we would need to overcome a presumption of validity. As this burden is a high one requiring us to present clear and convincing evidence as to the invalidity of any such U.S. patent claim, there is no assurance that a court of competent jurisdiction would invalidate the claims of any such U.S. patent. Conversely, in the United States, the patent owner need only prove infringement by a preponderance of the evidence, which is a lower burden of proof. We will have similar burdens to overcome in foreign courts in order to successfully challenge a third party claim of patent infringement.

Our defense of any litigation or interference proceedings may fail and, even if successful, defending such claims brought against us would cause us to incur substantial expenses. If such claims are successfully asserted against us, they may result in substantial costs and distract our management and other employees and could cause us to pay substantial damages. Further, if a patent infringement or other intellectual property rights-related lawsuit were brought against us, we could be forced, including by court order, to cease developing, manufacturing and/or commercializing the infringing product or service. In addition, we could be found liable for monetary damages,

including treble damages and attorneys' fees, if we are found to have willfully infringed a patent or other intellectual property right. Although patent, trademark, trade secret, and other intellectual property disputes in the medical device area have often been settled through licensing or similar arrangements, costs associated with such arrangements may be substantial and could include ongoing royalties. We may not be able to obtain licenses on commercially reasonable terms, or at all, in which event our business would be materially and adversely affected. Even if we were able to obtain a license, the rights may be nonexclusive, which could result in our competitors and other third parties gaining access to the same intellectual property. Ultimately, if we are unable to obtain such licenses or make any necessary changes to our products or services, we could be forced to cease some aspect of our business operations, which could harm our business significantly.

A finding of infringement, or an unfavorable interference or derivation proceedings outcome could prevent us from developing, manufacturing and/or commercializing our products or services, or force us to cease some or all of our business operations, which could materially harm our business. Claims that we have misappropriated the confidential information or trade secrets of third parties could have a similar negative impact on our business, financial condition, results of operations and prospects. We may not have sufficient financial or other resources to conduct such litigation or proceedings adequately. Some of our competitors may be able to sustain the costs of litigation or administrative proceedings more effectively than we can because of greater financial resources and more mature and developed intellectual property portfolios. We could encounter delays in product or service introductions while we attempt to develop alternative products or services.

If third parties assert infringement, misappropriation or other claims against our customers, these claims may require us to initiate or defend protracted and costly litigation on behalf of our customers, regardless of the merits of these claims. If any of these claims succeed or settle, we may be forced to pay damages or settlement payments on behalf of our customers or may be required to obtain licenses for the products they use. If we cannot obtain all necessary licenses on commercially reasonable terms, our customers may be forced to stop using our products or services.

Additionally, our products include components that we purchase from suppliers and may include design components that are outside of our direct control. Our competitors, many of which have substantially greater resources and have made substantial investments in patent portfolios, trade secrets, trademarks, and competing technologies, may have applied for or obtained, or may in the future apply for or obtain, patents or trademarks that will prevent, limit or otherwise interfere with our ability to make, use, sell and/or export our products, services or to use our technologies or product names. As the number of competitors in our market grows and the number of patents issued in this area increases, the possibility of patent infringement claims against us may increase. Moreover, individuals and groups that are non-practicing entities, commonly referred to as "patent trolls," purchase patents and other intellectual property assets for the purpose of making claims of infringement in order to extract settlements. From time to time, we may receive threatening letters, notices or "invitations to license," or may be the subject of claims that our products, services and business operations infringe, misappropriate or otherwise violate the intellectual property rights of others. The defense of these matters can be time-consuming, costly to defend in litigation, divert management's attention and resources, damage our reputation and brand and cause us to incur significant expenses or make substantial payments. In addition, suppliers from whom we purchase hardware or software may not indemnify us in the event that such hardware or software is accused of infringing a third party's patent or trademark or of misappropriating a third party's trade secret.

Third parties may also raise similar claims before administrative bodies in the United States or abroad, even outside the context of litigation. Such mechanisms include re-examination, post grant review, inter partes review and equivalent proceedings in foreign jurisdictions (for example, opposition proceedings). Such proceedings could result in revocation of or amendment to our patents in such a way that they no longer cover our products or services. Two of our applications filed in Europe are currently subject to opposition challenges. The outcome following legal assertions of invalidity and unenforceability is unpredictable. With respect to the validity question, for example, we cannot be certain that there is no invalidating prior art, of which we, our patent counsel, and the patent examiner were unaware during prosecution. If a third party were to prevail on a legal assertion of invalidity and/or unenforceability, we may lose at least part, and perhaps all, of the patent protection on our products or services. Such a loss of patent protection would have a material adverse impact on our business, financial condition, results of operations, and prospects.

Because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during litigation. There could also be public announcements of the results of hearing, motions, or other interim developments. If securities analysts or investors perceive these results to be negative, it could have a material adverse effect on the price of shares of our common stock. Even if we ultimately prevail, a court may decide not to grant an injunction against further infringing activity and instead award only monetary damages, which may not be an adequate remedy. Furthermore, the monetary cost of such litigation and the diversion of the attention of our management could outweigh any benefit we receive as a result of the proceedings. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could have a material adverse effect on our business. Any of the foregoing may cause us to incur substantial costs, and could place a significant strain on our financial resources, divert the attention of management from our core business and harm our reputation.

Our use of "open source" software could subject our proprietary software to general release, adversely affect our ability to sell our AquaBeam Robotic System or our other current or future products and services and subject us to possible litigation.

A portion of the products or technologies licensed, developed and/or distributed by us incorporate so-called "open source" software and we may incorporate open source software into other products in the future. Such open source software is generally licensed by its authors or other third parties under open source licenses. Some open source licenses contain requirements that we disclose source code for modifications we make to the open source software and that we license such modifications to third parties at no cost. In some circumstances, distribution of our software in connection with open source software could require that we disclose and license some or all of our proprietary code in that software, as well as distribute our software that uses particular open source software at no cost to the user. We monitor our use of open source software in an effort to avoid uses in a manner that would require us to disclose or grant licenses under our proprietary source code; however, there can be no assurance that such efforts will be successful. Open source license terms are often ambiguous and such use could inadvertently occur. There is little legal precedent governing the interpretation of many of the terms of these licenses, and the potential impact of these terms on our business may result in unanticipated obligations regarding our AquaBeam Robotic System and our technologies. Companies that incorporate open source software into their products have, in the past, faced claims seeking enforcement of open source license provisions and claims asserting ownership of open source software incorporated into their product. If an author or other third party that distributes such open source software were to allege that we had not complied with the conditions of an open source license, we could incur significant legal costs defending ourselves against such allegations. In the event such claims were successful, we could be subject to significant damages or be enjoined from the distribution of our AquaBeam Robotic System and our other current and future products. In addition, if we combine our proprietary software with open source software in certain ways, under some open source licenses, we could be required to release the source code of our proprietary software, which could substantially help our competitors develop products that are similar to or better than ours and otherwise adversely affect our business. These risks could be difficult to eliminate or manage, and, if not addressed, could harm our business, financial condition and results of operations.

Intellectual property rights do not necessarily address all potential threats.

The degree of future protection afforded by our intellectual property rights is uncertain because intellectual property rights have limitations and may not adequately protect our business or permit us to maintain our competitive advantage. For example:

- others may be able to make products that are similar to our AquaBeam Robotic System and our other current or future products or utilize similar technology but that are not covered by the claims of our patents or that incorporate certain technology in our AquaBeam Robotic System and our other current and future products that is in the public domain;
- we, or our future licensors or collaborators, might not have been the first to make the inventions covered by the applicable issued patent or pending patent application that we own now or may own or license in the future;

- we, or our future licensors or collaborators, might not have been the first to file patent applications covering certain of our or their inventions;
- others may independently develop similar or alternative technologies or duplicate any of our technologies without infringing our intellectual property rights;
- it is possible that our current or future pending patent applications will not lead to issued patents;
- issued patents that we hold rights to may be held invalid or unenforceable, including as a result of legal challenges by our competitors or other third parties;
- our competitors or other third parties might conduct research and development activities in countries where we do not have patent rights and then use the information learned from such activities to develop competitive products for sale in our major commercial markets;
- we may not develop additional proprietary technologies that are patentable;
- the patents of others may harm our business; and
- we may choose not to file a patent in order to maintain certain trade secrets or know-how, and a third party may subsequently file a patent covering such intellectual property.

Any of the foregoing could have a material adverse effect on our business, financial condition and results of operations.

We may not be able to protect our intellectual property and proprietary rights throughout the world.

Third parties may attempt to develop, manufacture and/or commercialize competitive products or services in foreign countries utilizing our proprietary technology, design, trademarks or tradenames in foreign countries where we do not have any patents or patent applications, trademarks, and/or other forms of intellectual property rights and/or where legal recourse may be limited. This may have a significant commercial impact on our foreign business operations.

Filing, prosecuting and defending patents or trademarks on our AquaBeam Robotic System and all of our other current and future products and services in all countries throughout the world would be prohibitively expensive, and the laws of foreign countries particularly those of developing countries, may not protect our rights to the same extent as the laws of the United States. For example, as of May 1, 2021, the Patent Cooperation Treaty had 153 contracting states, and it is only economically feasible to file for protection in a portion of these countries. With the COVID-19 pandemic, some of our foreign associates have requested instructions well in advance of deadlines, which could adversely affect our ability to meet foreign deadlines for filing and prosecuting patent applications. Also, it is unclear to what extent the COVID-19 pandemic will adversely impact operations at some foreign patent offices where we have sought protection. Consequently, we may not be able to prevent third parties from practicing our inventions or trademarks in all jurisdictions outside the United States to the same extent as the United States, or from developing, manufacturing, selling or importing products or services using or incorporating our inventions or trademarks in and into the United States or other jurisdictions. Competitors may use our technologies in jurisdictions where we have not obtained patent or trademark protection to develop, manufacture and/or market their own products or services and, further, may export otherwise infringing products or services to territories where we have patent or trademark protection, but enforcement on infringing activities is inadequate or not as strong as that in the United States. These products or services may compete with our AquaBeam Robotic System or other current or future products or services, and our patents, trademarks or other intellectual property rights may not be effective or sufficient to prevent them from competing.

In addition, we may decide to abandon national and regional patent applications before they are granted. The examination of each national or regional patent application is an independent proceeding. As a result, patent applications in the same family may issue as patents in some jurisdictions, such as in the United States, but may issue as patents with claims of different scope or may even be refused in other jurisdictions. It is also quite common

that depending on the country, the scope of patent protection may vary for the same product or technology. For example, certain jurisdictions do not allow for patent protection with respect to method of treatment.

While we seek to protect our intellectual property rights in our expected significant markets, we cannot ensure that we will be able to initiate or maintain similar efforts in all jurisdictions in which we may wish to manufacture or market our products or services. Accordingly, our efforts to protect our intellectual property rights in such countries may be inadequate, which may have an adverse effect on our ability to successfully manufacture or commercialize our products or services in all of our expected significant foreign markets. If we encounter difficulties in protecting, or are otherwise precluded from effectively protecting, the intellectual property rights important for our business in such jurisdictions, the value of these rights may be diminished, and we may face additional competition from others in those jurisdictions. Many companies have encountered significant problems in protecting and defending intellectual property rights in foreign jurisdictions. The legal systems of certain countries, particularly certain developing countries, do not favor the enforcement of patents, trade secrets and other intellectual property protection, which could make it difficult for us to stop the infringement of our patents or marketing of competing products in violation of our intellectual property and proprietary rights generally. Proceedings to enforce our intellectual property and proprietary rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business, could put our patents at risk of being invalidated or interpreted narrowly, could put our patent applications at risk of not issuing and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate, and the damages or other remedies awarded, if any, may not be commercially meaningful. Accordingly, our efforts to enforce our intellectual property and proprietary rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we develop or license.

Many countries have compulsory licensing laws under which a patent owner may be compelled to grant licenses to third parties. In addition, many countries limit the enforceability of patents against government agencies or government contractors. In these countries, the patent owner may have limited remedies, which could materially diminish the value of such patent. If we are forced to grant a license to third parties with respect to any patents relevant to our business, our competitive position may be impaired, and our business, financial condition and results of operations may be adversely affected.

We heavily depend on intellectual property licensed from third parties and our licensors may not always act in our best interest. If we fail to comply with our obligations under our intellectual property licenses, if the licenses are terminated, or if disputes regarding these licenses arise, we could lose significant rights that are important to our business.

We are dependent on patents, know-how and other proprietary technology licensed from AquaBeam LLC, which is affiliated with Rodney Perkins, one of our co-founders and a member of our board of directors who will resign from the board effective immediately upon effectiveness of the registration statement of which this prospectus is a part. This and other licenses we currently possess or may possess in the future may not provide exclusive rights to use such intellectual property and technology in all relevant fields of use and in all territories in which we may wish to develop or commercialize our technology and products in the future. As a result, we may not be able to prevent competitors from developing and commercializing competitive products in territories included in all of our licenses. Moreover, if we fail to comply with our obligations under such licenses, or if disputes over intellectual property that we have licensed prevent or impair our ability to maintain our current licensing arrangements on acceptable terms, we may be unable to successfully develop and commercialize the affected technology or products.

Certain provisions in our intellectual property agreements with third parties may also be susceptible to multiple interpretations. The resolution of any contract interpretation disagreement that may arise could affect the scope of our rights to the relevant intellectual property or technology, or affect financial or other obligations under the relevant agreement, either of which could have a material adverse effect on our business, results of operations, financial condition, cash flows and prospects. In spite of our efforts, our current and future licensors might also conclude that we have breached our obligations under our license agreements and might therefore seek to terminate such license agreements, thereby removing or limiting our ability to develop and commercialize products and technology covered by these license agreements. As a result, any termination of these licenses could result in the

loss of significant rights and could harm our ability to commercialize our products, including, for example, the AquaBeam Robotic System, and our financial results.

In addition, we may need to obtain additional licenses from our existing licensors and others to allow commercialization of products we may develop. Moreover, we may be required to expend significant time and resources to redesign our technology, products, or the methods for manufacturing them or to develop or license replacement technology, all of which may not be feasible on a technical or commercial basis. If we are unable to do so, we may be unable to develop or commercialize the affected technology or products. Even if we are able to obtain such additional licenses, they may be non-exclusive thereby giving our competitors and other third parties access to the same technology licensed to us. Any of the foregoing could have an adverse impact on our business and financial results.

Risks Related to This Offering and Ownership of Our Common Stock

The market price of our common stock may be volatile or may decline steeply or suddenly regardless of our operating performance, which could result in substantial losses for purchasers of our common stock in this offering, and we may not be able to meet investor or analyst expectations.

Following this offering, the market price of our common stock may be highly volatile and fluctuate or decline significantly in response to numerous factors, many of which are beyond our control, including:

- variations between our actual operating results, or those of companies that are perceived to be similar to us, and the expectations of securities analysts, investors and the financial community;
- any forward-looking financial or operating information we may provide to the public or securities analysts, any changes in this information or our failure to meet expectations based on this information;
- actions of securities analysts who initiate or maintain coverage of us, changes in financial estimates by any securities analysts who follow our Company or our failure to meet these estimates or the expectations of investors;
- additional shares of our common stock being sold into the market by us or our existing stockholders, or the anticipation of such sales, including if existing stockholders sell shares into the market when applicable “lock-up” period ends;
- hedging activities by market participants;
- announcements by us or our competitors of significant products or features, technical innovations, acquisitions, strategic partnerships, joint ventures or capital commitments;
- changes in operating performance and stock market valuations of companies in our industry, including our competitors;
- changes in third-party payor reimbursement policies;
- an inability to obtain additional funding;
- general economic, industry and market conditions, including price and volume fluctuations in the overall stock market;
- expiration of market stand-off or lock-up agreements;
- lawsuits threatened or filed against us;
- developments in new legislation and pending lawsuits or regulatory actions, including interim or final rulings by judicial or regulatory bodies; and

- other events or factors, including those resulting from political conditions, election cycles, war or incidents of terrorism, or responses to these events, many of which are outside of our control.

In addition, extreme price and volume fluctuations in the stock markets have affected and continue to affect many life sciences and technology companies' stock prices. Stock prices often fluctuate in ways unrelated or disproportionate to the companies' operating performance. In the past, stockholders have filed securities class action litigation following periods of market volatility. This risk is especially relevant for us because medical technology companies have experienced significant stock price volatility in recent years. If we were to become involved in securities litigation, it could subject us to substantial costs, divert resources and the attention of management from our business and seriously harm our business.

Moreover, because of these fluctuations, comparing our operating results on a period-to-period basis may not be meaningful. You should not rely on our past results as an indication of our future performance. This variability and unpredictability could also result in our failure to meet the expectations of industry or financial analysts or investors for any period. If our revenues or operating results fall below the expectations of analysts or investors or below any forecasts we may provide to the market, or if the forecasts we provide to the market are below the expectations of analysts or investors, the price of our common stock could decline substantially. Such a stock price decline could occur even when we have met any previously publicly stated revenue or earnings forecasts that we may provide.

An active trading market for our common stock may never develop or be sustained, and you may not be able to resell your shares at or above the initial public offering price.

Prior to this offering, there has been no public market for our common stock. Although we have applied to list our common stock on The Nasdaq Stock Market under the symbol "PRCT," an active trading market for our common stock may never develop or be sustained following this offering. The initial public offering price for our common stock will be determined through negotiations between the underwriters and us, and may vary from the market price of our common stock following this offering. This initial public offering price may not be indicative of the market price of our common stock after this offering. We cannot assure you that the market price following this offering will equal or exceed prices in privately negotiated transactions of our shares that have occurred from time to time before this offering. In the absence of an active trading market for our common stock, you may not be able to sell your shares of our common stock when desired or at or above the initial public offering price. An inactive market may also impair our ability to raise capital by selling shares and may impair our ability to acquire other businesses or technologies using our shares as consideration, which, in turn, could materially and adversely affect our business.

Future sales of shares by existing stockholders could cause our stock price to decline.

If our existing stockholders sell, or indicate an intention to sell, substantial amounts of our common stock in the public market after the lock-up and legal restrictions on resale discussed in this prospectus lapse, the trading price of our common stock could decline. Based on 169,299,646 shares of common stock outstanding as of June 30, 2021 (including the conversion of all outstanding shares of our convertible preferred stock into 141,787,304 shares of our common stock immediately prior to the completion of this offering) and the exercise of outstanding warrants as of June 30, 2021 for 340,681 shares of redeemable convertible preferred stock, at a cash exercise price of $2.89 per share, and subsequent conversion into 340,681 shares of common stock, on the completion of this offering, we will have a total of shares of common stock outstanding. Of these shares, only the shares of common stock sold in this offering will be freely tradable, without restriction, in the public market immediately after the offering. Each of our directors, executive officers and other holders of substantially all our outstanding equity securities are subject to lock-up and market standoff agreements that restrict their ability to, among other things and subject to certain exceptions, sell or transfer their shares for a period of 180 days after the date of this prospectus subject to certain exceptions. However, BofA Securities, Inc. and Goldman Sachs & Co. LLC may, in their sole discretion, waive the contractual lock-up before the lock-up agreements expire. After the lock-up agreements expire, all shares outstanding as of June 30, 2021 (assuming the closing of the offering) will be eligible for sale in the public market, of which the shares are held by directors, executive officers and other affiliates and will be subject to volume limitations under Rule 144 of the Securities Act, and various vesting agreements. Sales of a substantial number of such shares upon expiration of the lock-up and market stand-off agreements, the perception that such sales may

occur or early release of these agreements, could cause our market price to fall or make it more difficult for you to sell your common stock at a time and price that you deem appropriate.

In addition, 31,451,996 shares of our common stock were issuable upon the exercise of options outstanding as of June 30, 2021. These shares will become eligible for sale in the public market to the extent permitted by the provisions of various vesting agreements, the lock-up agreements and Rules 144 and 701 of the Securities Act. We intend to file a registration statement on Form S-8 under the Securities Act covering all the shares of common stock subject to stock options outstanding and reserved for issuance under our stock plans. That registration statement will become effective immediately on filing, and shares covered by that registration statement will be eligible for sale in the public markets, subject to Rule 144 limitations applicable to affiliates and the lock-up agreement described above. If these additional shares are sold, or if it is perceived that they will be sold in the public market, the trading price of our common stock could decline.

If you purchase our common stock in this offering, you will incur immediate and substantial dilution.

The assumed initial public offering price is substantially higher than the pro forma net tangible book value per share of our common stock (which gives effect to the conversion of all outstanding shares of our redeemable convertible preferred stock into shares of common stock, and the exercise of outstanding redeemable convertible preferred stock warrants and subsequent conversion into common stock, immediately prior to the closing of this offering) of $0.72 per share as of June 30, 2021. Investors purchasing common stock in this offering will pay a price per share that substantially exceeds the net book value of our tangible assets (after the conversion of our redeemable convertible preferred stock, and the exercise of outstanding redeemable convertible preferred stock warrants and subsequent conversion, and after subtracting our liabilities). As a result, investors purchasing common stock in this offering will incur immediate dilution of $ per share, based on the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus. This dilution is due to the substantially lower price paid by our investors who purchased shares prior to this offering as compared to the price offered to the public in this offering.

We do not intend to pay dividends for the foreseeable future and, as a result, your ability to achieve a return on your investment will depend on appreciation in the price of our common stock.

We have never declared or paid any cash dividends on our common stock and do not intend to pay any cash dividends in the foreseeable future. We anticipate that we will retain all of our future earnings for use in the development of our business and for general corporate purposes. Any determination to pay dividends in the future will be at the discretion of our board of directors. In addition, the terms of our loan and security agreement with Oxford Finance LLC restrict our ability to pay dividends to limited circumstances. Accordingly, investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investments.

We have broad discretion in how we may use the net proceeds from this offering, and we may not use them effectively.

Our management will have broad discretion in applying the net proceeds we receive from this offering, and accordingly, investors in this offering will need to rely upon the judgment of our management with respect to the use of proceeds with only limited information concerning management's specific intentions. We currently intend to use the net proceeds of this offering, together with our existing cash and cash equivalents, to hire additional sales and marketing personnel and expand marketing programs both in the United States and in Europe, to fund product development and research and development activities and the remainder for working capital and other general corporate purposes. We may use a portion of our net proceeds to acquire and invest in complementary products, technologies or businesses; however, we currently have no agreements or commitments to complete any such transaction. We may also spend or invest these proceeds in a way with which our stockholders disagree. If our management fails to use these funds effectively, our business could be seriously harmed.

After this offering, our principal stockholders and management will own a significant percentage of our stock and will be able to exercise significant influence over matters subject to stockholder approval.

As of June 30, 2021, our executive officers, directors and 5% stockholders beneficially owned approximately % of the outstanding shares of capital stock, and, upon the closing of this offering, that same group will hold approximately % of our outstanding shares of common stock (assuming no exercise of the underwriters' option to purchase additional shares from us). Therefore, even after this offering, these stockholders will have the ability to influence us through this ownership position. The interests of these stockholders may not be the same as or may even conflict with your interests. For example, these stockholders could attempt to delay or prevent a change in control of us, even if such change in control would benefit our other stockholders, which could deprive our stockholders of an opportunity to receive a premium for their common stock as part of a sale of us or our assets, and might affect the prevailing market price of our common stock due to investors' perceptions that conflicts of interest may exist or arise. As a result, this concentration of ownership may not be in the best interests of our other stockholders.

Future securities issuances could result in significant dilution to our stockholders and impair the market price of our common stock.

Future issuances of shares of our common stock, or the perception that these sales may occur, could depress the market price of our common stock and result in dilution to existing holders of our common stock. Also, to the extent outstanding options to purchase shares of our common stock are exercised or options, restricted stock units or other stock-based awards are issued or become vested, there will be further dilution. The amount of dilution could be substantial depending upon the size of the issuances or exercises. Furthermore, we may issue additional equity securities that could have rights senior to those of our common stock. As a result, purchasers of our common stock in this offering bear the risk that future issuances of debt or equity securities may reduce the value of our common stock and further dilute their ownership interest.

Delaware law and provisions in our amended and restated certificate of incorporation and bylaws that will be in effect on the completion of this offering could make a merger, tender offer or proxy contest difficult, thereby depressing the trading price of our common stock.

Our amended and restated certificate of incorporation and bylaws that will be in effect on the completion of this offering contain provisions that could depress the trading price of our common stock by acting to discourage, delay or prevent a change of control of our company or changes in our management that the stockholders of our company may deem advantageous. These provisions include the following:

- establishing a classified board of directors so that not all members of our board of directors are elected at one time;
- permitting our board of directors to establish the number of directors and fill any vacancies and newly-created directorships;
- providing that directors may only be removed for cause and only by the affirmative vote of the holders of at least a majority of the voting power of all then outstanding shares of our capital stock;
- requiring the approval of holders of two-thirds of our outstanding common stock to amend some provisions in our amended and restated certificate of incorporation and bylaws;
- authorizing the issuance of "blank check" preferred stock that our board of directors could use to implement a stockholder rights plan;
- prohibiting stockholders from calling special meetings of stockholders;
- prohibiting stockholder action by written consent, which has the effect of requiring all stockholder actions to be taken at a meeting of our stockholders;
- providing that the board of directors is expressly authorized to make, alter or repeal our bylaws;

- restricting the forum for certain litigation involving us to Delaware or federal courts, as applicable; and
- establishing advance notice requirements for nominations for election to our board of directors or for proposing matters that can be acted upon by stockholders at annual stockholder meetings.

Any provision of our amended and restated certificate of incorporation or bylaws that will be in effect on the completion of this offering or Delaware law that has the effect of delaying or deterring a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our common stock, and could also affect the price that some investors are willing to pay for our common stock. For information regarding these and other provisions, see section titled "Description of Capital Stock—Anti-Takeover Provisions."

The provisions of our amended and restated certificate of incorporation requiring exclusive forum in the Court of Chancery of the State of Delaware and the federal district courts of the United States for certain types of lawsuits may have the effect of discouraging lawsuits against our directors and officers.

Our amended and restated certificate of incorporation to be in effect upon the completion of this offering will provide that, unless we consent in writing to the selection of an alternative forum, the sole and exclusive forum, to the fullest extent permitted by law, for (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a breach of a fiduciary duty owed by any director, officer or other employee to us or our stockholders, (iii) any action asserting a claim against us or any director, officer, or other employee arising pursuant to the Delaware General Corporation Law, (iv) any action to interpret, apply, enforce, or determine the validity of our second amended and restated certificate of incorporation or amended and restated bylaws, or (v) any other action asserting a claim that is governed by the internal affairs doctrine, shall be the Court of Chancery of the State of Delaware (or another state court or the federal court located within the State of Delaware if the Court of Chancery does not have or declines to accept jurisdiction), in all cases subject to the court's having jurisdiction over indispensable parties named as defendants. In addition, our amended and restated certificate of incorporation will provide that the federal district courts of the United States will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act but that the forum selection provision will not apply to claims brought to enforce a duty or liability created by the Exchange Act.

Although we believe these provisions benefit us by providing increased consistency in the application of Delaware law for the specified types of actions and proceedings, the provisions may have the effect of discouraging lawsuits against us or our directors and officers. Alternatively, if a court were to find the choice of forum provision contained in our amended and restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, financial condition, and operating results. For example, under the Securities Act, federal courts have concurrent jurisdiction over all suits brought to enforce any duty or liability created by the Securities Act, and investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder. Any person or entity purchasing or otherwise acquiring any interest in our shares of capital stock shall be deemed to have notice of and consented to this exclusive forum provision, but will not be deemed to have waived our compliance with the federal securities laws and the rules and regulations thereunder. These provisions may also result in increased costs for investors seeking to bring a claim against us or any of our directors, officers or other employees.

Risks Related to Being a Public Company

We have identified a material weakness in our internal control over financial reporting and may identify additional material weaknesses in the future or otherwise fail to maintain effective internal control over financial reporting, which may result in material misstatements of our financial statements or cause us to fail to meet our periodic reporting obligations.

In connection with the preparation of our consolidated financial statements, a material weakness in our internal control over financial reporting was identified as of December 31, 2020. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. The material weakness is the result of our failure to design and maintain effective controls over certain

information technology, or IT, general controls for information systems that are relevant to the preparation of our financial statements. Specifically, we did not design and maintain:

- program change management controls to ensure that information technology program and data changes affecting financial IT applications and underlying accounting records are identified, tested, authorized and implemented appropriately, and
- user access controls to ensure appropriate segregation of duties and that adequately restrict user and privileged access to financial applications, programs and data to appropriate Company personnel.

These IT general control deficiencies did not result in a material misstatement to the financial statements; however, the deficiencies, when aggregated, could impact maintaining effective segregation of duties, as well as the effectiveness of IT-dependent controls (such as automated controls that address the risk of material misstatement to one or more assertions, along with the IT controls and underlying data that support the effectiveness of system-generated data and reports) that could result in misstatements potentially impacting all financial statement accounts and disclosures that would result in a material misstatement to the annual or interim financial statements that would not be prevented or detected. Accordingly, our management determined these deficiencies in the aggregate constitute a material weakness.

We are in the process of designing and implementing measures to remediate the material weakness in our internal control over financial reporting, which includes designing and implementing controls over the review and update of user access rights and privileges, including segregation of duties, and controls over program changes to our information systems that contain data used for financial reporting. While we are designing and implementing measures to remediate the material weakness, we cannot predict the success of such measures or the outcome of our assessment of these measures at this time. We can give no assurance that these measures will remediate the material weakness in our internal control over financial reporting or that additional material weaknesses in our internal control over financial reporting will not be identified in the future. The material weakness will not be considered remediated until management completes the design and implementation of the measures described above and the controls operate for a sufficient period of time and management has concluded, through testing, that these controls are effective. Our failure to design and maintain effective internal control over financial reporting could result in errors in our financial statements that may lead to a restatement of our financial statements or cause us to fail to meet our reporting obligations.

As a public company, our management will be required to report upon the effectiveness of our internal control over financial reporting beginning with the annual report for our fiscal year ending December 31, 2022. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting. When we lose our status as an “emerging growth company,” our independent registered public accounting firm will be required to audit the effectiveness of our internal control over financial reporting. Failure to comply with the Sarbanes-Oxley Act could potentially subject us to sanctions or investigations by the SEC or other regulatory authorities, which would require additional financial and management resources. Failure to remediate any material weakness in our internal control over financial reporting, or to design and maintain effective internal control over financial reporting, could also restrict our future access to the capital markets.

Our disclosure controls and procedures may not prevent or detect all errors or acts of fraud.

Upon the completion of this offering, we will become subject to the periodic reporting requirements of the Exchange Act. We must design our disclosure controls and procedures to reasonably assure that information we must disclose in reports we file or submit under the Exchange Act is accumulated and communicated to management, and recorded, processed, summarized, and reported within the time periods specified in the rules and forms of the SEC. Any disclosure controls and procedures or internal controls and procedures, no matter how well-conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. For example, our directors or executive officers could inadvertently fail to disclose a new relationship or arrangement causing us to fail to make a required related party transaction disclosure. Additionally, controls can be circumvented by the individual acts of some persons, by

collusion of two or more people or by an unauthorized override of the controls. Accordingly, because of the inherent limitations in our control system, misstatements due to error or fraud may occur and not be detected.

The requirements of being a public company may strain our resources, result in more litigation, and divert management's attention.

As a public company, we will be subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the Dodd-Frank Act, the listing requirements of The Nasdaq Stock Market, and other applicable securities rules and regulations. Complying with these rules and regulations has increased and will increase our legal and financial compliance costs, make some activities more difficult, time consuming or costly, and increase demand on our systems and resources. The Exchange Act requires, among other things, that we file annual, quarterly, and current reports with respect to our business and operating results. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. We are required to disclose changes made in our internal control and procedures on a quarterly basis. In order to maintain and, if required, improve our disclosure controls and procedures and internal control over financial reporting to meet this standard, significant resources and management oversight may be required. As a result, management's attention may be diverted from other business concerns, which could adversely affect our business and operating results. We may also need to hire additional employees or engage outside consultants to comply with these requirements, which will increase our costs and expenses.

In addition, changing laws, regulations, and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs, and making some activities more time consuming. These laws, regulations, and standards are subject to varying interpretations, in many cases due to their lack of specificity and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. We intend to invest resources to comply with evolving laws, regulations, and standards, and this investment may result in increased general and administrative expenses and a diversion of management's time and attention from revenue-generating activities to compliance activities. If our efforts to comply with new laws, regulations, and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to their application and practice, regulatory authorities may initiate legal proceedings against us and our business may be adversely affected.

These new rules and regulations may make it more expensive for us to obtain director and officer liability insurance and, in the future, we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult for us to attract and retain qualified members of our Board, particularly to serve on our audit committee and compensation committee, and qualified executive officers.

By disclosing information in this prospectus and in future filings required of a public company, our business and financial condition will become more visible, which we believe may result in threatened or actual litigation, including by competitors and other third parties. If those claims are successful, our business could be seriously harmed. Even if the claims do not result in litigation or are resolved in our favor, the time and resources needed to resolve them could divert our management's resources and seriously harm our business.

General Risks

Litigation and other legal proceedings may adversely affect our business.

From time-to-time we may become involved in legal proceedings relating to patent and other intellectual property matters, product liability claims, employee claims, tort or contract claims, federal regulatory investigations, securities class action and other legal proceedings or investigations, which could have an adverse impact on our reputation, business and financial condition and divert the attention of our management from the operation of our business. Litigation is inherently unpredictable and can result in excessive or unanticipated verdicts and/or injunctive relief that affect how we operate our business. We could incur judgments or enter into settlements of claims for monetary damages or for agreements to change the way we operate our business, or both. There may be

an increase in the scope of these matters or there may be additional lawsuits, claims, proceedings or investigations in the future, which could have a material adverse effect on our business, financial condition and results of operations. Adverse publicity about regulatory or legal action against us could damage our reputation and brand image, undermine our customers' confidence and reduce long-term demand for our AquaBeam Robotic System, even if the regulatory or legal action is unfounded or not material to our operations.

General economic and financial market conditions may exacerbate our business risks.

Global macroeconomic conditions and the world's financial markets remain susceptible to significant stresses, resulting in reductions in available credit and government spending, economic downturn or stagnation, foreign currency fluctuations and volatility in the valuations of securities generally. Our customers and distributors may respond to such economic pressures by reducing or deferring their capital spending or reducing staff. Furthermore, unfavorable changes in foreign exchange rates versus the U.S. dollar could increase our product and labor costs, thus reducing our gross profit.

If securities or industry analysts either do not publish research about us or publish inaccurate or unfavorable research about us, our business or our market, or if they change their recommendations regarding our common stock adversely, the trading price or trading volume of our common stock could decline.

The trading market for our common stock will be influenced in part by the research and reports that securities or industry analysts may publish about us, our business, our market or our competitors. If one or more analysts initiate research with an unfavorable rating or downgrade our common stock, provide a more favorable recommendation about our competitors or publish inaccurate or unfavorable research about our business, our common stock price would likely decline. If any analyst who may cover us were to cease coverage of us or fail to regularly publish reports on us, we could lose visibility in the financial markets, which in turn could cause the trading price or trading volume of our common stock to decline.

We are an emerging growth company and a "smaller reporting company," and any decision on our part to comply only with certain reduced reporting and disclosure requirements applicable to emerging growth companies and smaller growth companies could make our common stock less attractive to investors.

We are an "emerging growth company" as defined in the JOBS Act and, for as long as we continue to be an emerging growth company, we may choose to take advantage of exemptions from various reporting requirements applicable to other public companies but not to emerging growth companies, including:

- not being required to have our independent registered public accounting firm audit our internal control over financial reporting under Section 404 of the Sarbanes-Oxley Act;
- reduced disclosure obligations regarding executive compensation in our periodic reports and annual report on Form 10-K; and
- exemptions from the requirements of holding non-binding advisory votes on executive compensation and stockholder approval of any golden parachute payments not previously approved.

We could be an emerging growth company for up to five years following the completion of our initial public offering. Our status as an emerging growth company will end as soon as any of the following takes place:

- the last day of the fiscal year in which we have more than $1.07 billion in annual revenue;
- the date we qualify as a "large accelerated filer;"
- the date on which we have issued, in any three-year period, more than $1.0 billion in non-convertible debt securities; or
- the last day of the fiscal year ending after the fifth anniversary of the completion of our initial public offering.

We cannot predict if investors will find our common stock less attractive if we choose to rely on any of the exemptions afforded to emerging growth companies. If some investors find our common stock less attractive because we rely on any of these exemptions, there may be a less active trading market for our common stock and the market price of our common stock may be more volatile.

We are an emerging growth company, as defined in the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. We have elected to avail ourselves of this exemption and, therefore, for new or revised accounting standards applicable to public companies, we will be subject to an extended transition period until those standards would otherwise apply to private companies. As a result, our consolidated financial statements may not be comparable to the financial statements of issuers who are required to comply with the effective dates for new or revised accounting standards that are applicable to public companies, which may make comparison of our financials to those of other public companies more difficult.

Even after we no longer qualify as an “emerging growth company,” we may still qualify as a “smaller reporting company,” which would allow us to continue to take advantage of many of the same exemptions from disclosure requirements, including, among other things, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, presenting only the two most recent fiscal years of audited financial statements in our Annual Report on Form 10-K and reduced disclosure obligations regarding executive compensation in this prospectus and our periodic reports and proxy statements.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements. You can generally identify forward-looking statements by our use of forward-looking terminology such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “might,” “plan,” “potential,” “predict,” “seek,” “vision,” or “should,” or the negative thereof or other variations thereon or comparable terminology. Forward-looking statements include those we make regarding the following matters:

- estimates of our total addressable market,
- our business model and strategic plans for our products, technologies and business, including our implementation thereof;
- competitive companies and technologies and our industry;
- our ability to hire and retain our senior management and other highly qualified personnel;
- potential future impact of the COVID-19 pandemic and the end of the COVID-19 pandemic on our business and operations;
- commercial success and market acceptance of our products;
- our ability to accurately forecast customer demand for our products and manage our inventory;
- our ability to commercialize or obtain regulatory approvals for our AquaBeam Robotic System, or the effect of delays in commercializing or obtaining regulatory approvals;
- FDA or other U.S. or foreign regulatory actions affecting us or the healthcare industry generally, including healthcare reform measures in the United States and international markets;
- the timing or likelihood of regulatory filings and approvals;
- our ability to anticipate and effectively respond to disruptions or inefficiencies in our distribution network;
- our ability to establish and maintain intellectual property protection for our intellectual property and avoid claims of infringement;
- the volatility of the trading price of our common stock;
- our expectations regarding the use of proceeds from this offering and our existing cash and cash equivalents;
- estimates of our need for additional financing and our ability to obtain additional financing in the future; and
- our expectations about market trends.

The preceding list is not intended to be an exhaustive list of all of our forward-looking statements. We have based these forward-looking statements on our current expectations, assumptions, estimates and projections. While we believe these expectations, assumptions, estimates and projections are reasonable, such forward-looking statements are only predictions and involve known and unknown risks and uncertainties, many of which are beyond our control. These and other important factors, including those discussed in the sections of this prospectus titled “Prospectus Summary,” “Risk Factors,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and “Business,” may cause our actual results, performance or achievements to differ materially from any future results, performance or achievements expressed or implied by these forward-looking statements. Furthermore, the potential impact of the COVID-19 pandemic on our business operations and financial results and on the world economy as a whole may heighten the risks and uncertainties that affect our forward-looking statements described above. Given these risks and uncertainties, you are cautioned not to place undue

reliance on such forward-looking statements. The forward-looking statements included elsewhere in this prospectus are not guarantees of future performance and our actual results of operations, financial condition and liquidity, and the development of the industry in which we operate, may differ materially from the forward-looking statements included elsewhere in this prospectus. In addition, even if our results of operations, financial condition and liquidity, and events in the industry in which we operate, are consistent with the forward-looking statements included elsewhere in this prospectus, they may not be predictive of results or developments in future periods.

Any forward-looking statement that we make in this prospectus speaks only as of the date of such statement. Except as required by law, we do not undertake any obligation to update or revise, or to publicly announce any update or revision to, any of the forward-looking statements, whether as a result of new information, future events or otherwise, after the date of this prospectus.

USE OF PROCEEDS

We estimate that the net proceeds to us from the sale of shares of our common stock in this offering will be approximately $ million, or approximately $ million if the underwriters exercise their option to purchase additional shares in full, based upon an assumed initial public offering price of $ per share, which is the midpoint of the estimated price range set forth on the cover page of this prospectus, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

Each $1.00 increase or decrease in the assumed initial public offering price of $ per share, the midpoint of the estimated price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the net proceeds to us from this offering by approximately $ million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting underwriting discounts and estimated offering expenses payable by us. Similarly, each increase or decrease of 1.0 million shares in the number of shares sold in this offering by us, as set forth on the cover page of this prospectus, would increase or decrease, as applicable, the net proceeds to us from this offering by approximately $ million, assuming an initial public offering price of $ per share remains the same, and after deducting underwriting discounts and estimated offering expenses payable by us. The information discussed above is illustrative only and will adjust based on the actual initial public offering price and other terms of this offering determined at pricing.

The principal purposes of this offering are to obtain additional capital to support our operations, to create a public market for shares of our common stock, to facilitate our future access to the public equity markets and to increase awareness of our company among potential customers. We currently intend to use the net proceeds from this offering, together with our existing cash and cash equivalents, as follows:

- approximately $ million to hire additional sales and marketing personnel;
- approximately $ million to fund product development and research and development activities; and
- the remainder, if any, for working capital and other general corporate purposes.

We may also use a portion of the net proceeds from this offering to acquire, in-license or invest in products, technologies or businesses that are complementary to our business. However, we currently have no agreements or commitments to complete any such transaction.

Based on our operating plan, we currently believe that our existing cash and cash equivalents, anticipated revenue and available debt financing arrangements, together with the net proceeds from this offering, will be sufficient to meet our capital requirements and fund our operations through at least the next twelve months from the date of this prospectus.

Our management will have broad discretion over the use of the net proceeds from this offering. The expected use of net proceeds from this offering represents our intentions based upon our present plans and business conditions, which could change in the future as or plans and business conditions evolve. We may find it necessary or advisable to use the net proceeds for other purposes, and we will have broad discretion in the application of the net proceeds.

Pending the uses described above, we plan to invest the net proceeds from this offering in short-and intermediate-term, interest-bearing obligations, investment-grade instruments or other securities.

CAPITALIZATION

The following table sets forth our cash and cash equivalents and our capitalization as of June 30, 2021:

- on an actual basis; and
- on a pro forma basis to give effect to (i) the conversion of all outstanding shares of our redeemable convertible preferred stock into 141,787,304 shares of common stock immediately prior to the closing of this offering, (ii) the exercise of outstanding warrants for 340,681 shares of redeemable convertible preferred stock, at a cash exercise price of $2.89 per share, and subsequent conversion into 340,681 shares of common stock, and the resultant reclassification of our redeemable convertible preferred stock warrant liability to additional paid-in capital, a component of stockholders' (deficit) equity, all of which will occur immediately prior to the completion of this offering and (iii) the filing of our amended and restated certificate of incorporation in connection with the closing of this offering; and
- on a pro forma as adjusted basis, to give effect to the pro forma adjustments described above as well as the sale and issuance by us of shares of our common stock in this offering at the initial public offering price of $ per share, the midpoint of the estimated price range set forth on the cover page of this prospectus, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us, net of amounts recorded in accrued expenses and other current liabilities and other assets at June 30, 2021.

The information below is illustrative only and our capitalization following the closing of this offering will be adjusted based on the actual initial public offering price and other terms of this offering determined at the pricing of this offering. You should read this information in conjunction with the sections titled "Use of Proceeds," "Prospectus Summary—Summary Consolidated Financial Data" and "Management's Discussion and Analysis of

Financial Condition and Results of Operations" and our financial statements and related notes included elsewhere in this prospectus.

	As of June 30, 2021		
	Actual	Pro Forma	Pro Forma As Adjusted[1]
	(dollars in thousands, except per share data)		
			(unaudited)
Cash and cash equivalents	$ 159,224	$ 160,209	$
Redeemable convertible preferred stock warrant liability	129	—	
Redeemable convertible preferred stock, $0.00001 par value; 149,299,844 shares authorized, 141,787,304 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted	328,564	—	
Stockholders' (deficit) equity:			
Preferred stock, $0.00001 par value per share; no shares authorized, issued or outstanding, actual; shares authorized, no shares issued or outstanding, pro forma and pro forma as adjusted	—	—	
Common stock; $0.00001 par value per share; 224,390,000 shares authorized, 27,512,342 shares issued and outstanding, actual; 224,390,000 shares authorized, 169,640,327 shares issued and outstanding, pro forma, shares authorized, shares issued and outstanding, pro forma as adjusted	—	2	
Additional paid-in capital	22,803	352,479	
Accumulated other comprehensive income (loss)	(39)	(39)	
Accumulated deficit	(229,070)	(229,070)	
Total stockholders' (deficit) equity	(206,306)	123,372	
Total capitalization	$ 122,387	$ 123,372	$

(1) Each $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the estimated price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the pro forma as adjusted amount of each of our cash and cash equivalents, additional paid-in capital and total stockholders' equity by approximately $, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase or decrease of 1.0 million shares in the number of shares offered by us at the assumed initial public offering price would increase or decrease, as applicable, each of our cash and cash equivalents, additional paid-in capital and total stockholders' equity by approximately $, assuming the shares of our common stock offered by this prospectus are sold at the assumed initial public offering price of $ per share and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. The pro forma as adjusted information discussed above is illustrative only and will be adjusted based on the actual initial public offering price, the number of shares we sell and other terms of this offering that will be determined at pricing.

The number of shares of our common stock issued and outstanding, pro forma and pro forma as adjusted in the table above, is based on the 169,640,327 shares of our common stock outstanding as of June 30, 2021 (including the conversion of all outstanding shares of our redeemable convertible preferred stock and the exercise of outstanding warrants into 142,127,985 shares of our common stock immediately prior to the completion of this offering), and excludes:

- 31,451,996 shares of our common stock issuable upon the exercise of options outstanding as of June 30, 2021, with a weighted-average exercise price of $0.98 per share;
- 930,000 shares of our common stock issuable upon the exercise of options granted after June 30, 2021, with a weighted-average exercise price of $1.83 per share;
- 5,440,298 shares of our common stock that remain available for issuance under our 2008 Plan as of June 30, 2021;

- shares of our common stock reserved for future issuance under our 2021 Plan, which will become effective in connection with this offering (and which excludes any potential annual evergreen increases pursuant to the terms of the 2021 Plan); and
- shares of our common stock reserved for future issuance under our ESPP, which will become effective in connection with this offering (and which excludes any potential annual evergreen increases pursuant to the terms of the ESPP).

DIVIDEND POLICY

We have never declared or paid any cash dividends on our capital stock. We intend to retain future earnings, if any, to finance the operation and expansion of our business and do not anticipate paying any cash dividends in the foreseeable future. Any future determination related to our dividend policy will be made at the discretion of our board of directors after considering our financial condition, results of operations, capital requirements, business prospects and other factors our board of directors deems relevant, and subject to the restrictions contained in any future financing instruments. In addition, our ability to pay cash dividends is currently restricted by the terms of our loan and security agreement with Oxford Finance LLC. Our ability to pay cash dividends on our capital stock in the future may also be limited by the terms of any preferred securities we may issue or agreements governing any additional indebtedness we may incur.

DILUTION

If you invest in our common stock in this offering, your interest will be diluted to the extent of the difference between the amount per share paid by purchasers of shares of our common stock in this initial public offering and the as adjusted net tangible book value per share of our common stock immediately after this offering.

As of June 30, 2021, our historical net tangible book value (deficit) was $(208.2) million, or $(7.57) per share of common stock. Our historical net tangible book value (deficit) represents our total tangible assets less total liabilities and our redeemable convertible preferred stock, which is not included within stockholders' equity.

As of June 30, 2021, our pro forma net tangible book value was $121.5 million, or $0.72 per share. As adjusted net tangible book value per share represents the amount of our total tangible assets reduced by the amount of our total liabilities and divided by the total number of shares of our common stock outstanding as of June 30, 2021 after giving effect to (i) the conversion of all outstanding shares of our redeemable convertible preferred stock into 141,787,304 shares of common stock immediately prior to the closing of this offering, (ii) the assumed exercise of outstanding warrants for 340,681 shares of redeemable convertible preferred stock at a cash exercise price of $2.89 per share, and subsequent conversion into 340,681 shares of common stock and (iii) the filing of our amended and restated certificate of incorporation in connection with the closing of this offering. Pro forma net tangible book value per share represents our pro forma net tangible book value divided by the number of shares of our common stock outstanding as of June 30, 2021, after giving effect to the pro forma adjustments described above.

After giving further effect to our sale of shares of our common stock in this offering at an assumed initial public offering price of $ per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of June 30, 2021 would have been approximately $ million, or $ per share. This represents an immediate increase in pro forma net tangible book value of $ per share to our existing stockholders and an immediate dilution in pro forma net tangible book value of approximately $ per share to new investors purchasing shares of our common stock in this offering.

The following table illustrates this dilution on a per share basis to new investors:

Assumed initial public offering price per share of common stock		$
Historical net tangible book value (deficit) per share as of June 30, 2021	$ (7.57)	
Increase in net tangible book value per share attributable to the pro forma effects described above	8.29	
Pro forma net tangible book value (deficit) per share as of June 30, 2021	0.72	
Increase in book value per share attributable to new investors purchasing common stock in this offering		
Pro forma as adjusted net tangible book value per share		
Dilution per share to new investors in this offering		$

Each $1.00 increase or decrease in the assumed initial offering price of $ per share, the midpoint of the estimated price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, our pro forma as adjusted net tangible book value by $, or $ per share, and the dilution per share of common stock to new investors in this offering by $ per share, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase of 1.0 million shares in the number of shares of common stock offered by us, as set forth on the cover page of this prospectus, would increase our pro forma as adjusted net tangible book value per share by $ and decrease the dilution per share to new investors by $, assuming no change in the assumed initial public offering price and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Each decrease of 1.0 million shares in the number of shares of common stock offered by us, as set forth on the cover page of this prospectus, would decrease our pro forma as adjusted net tangible book value per share by $ and increase the dilution per share to new investors by $, assuming no change in the

assumed initial public offering price and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The following table summarizes, on an as adjusted basis as of June 30, 2021, after giving effect to the pro forma as adjusted adjustments described above, the difference among existing stockholders and new investors purchasing shares of our common stock in this offering with respect to the number of shares purchased from us, the total consideration paid to us and the average price per share paid by our existing stockholders or to be paid by investors purchasing shares in this offering at the initial public offering price of $ per share, which is the midpoint of the estimated price range set forth on the cover page of this prospectus, before deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

	Shares Purchased		Total Consideration		Weighted-Average Price Per Share
	Number	Percent	Amount	Percent	
Existing stockholders		%	$	%	$
New investors					$
Total		100.0 %	$	100.0 %	

Each $1.00 increase or decrease in the assumed initial public offering price of $ per share, the midpoint of the estimated price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, total consideration paid by new investors by $ million and total consideration paid by all stockholders and weighted-average price per share paid by all stockholders by $ million and $ per share, respectively, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase or decrease of 1.0 million shares in the number of shares offered by us, as set forth on the cover page of this prospectus, would increase or decrease, as applicable, total consideration paid by new investors by $ million and total consideration paid by all stockholders and weighted-average price per share paid by all stockholders by $ million and $ per share, respectively, assuming the assumed initial public offering price of $ per share remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The table above assumes the underwriters do not exercise their option to purchase additional shares in this offering. If the underwriters fully exercise their option to purchase additional shares of our common stock in this offering, the pro forma as adjusted net tangible book value per share would be $ per share and the dilution to new investors in this offering would be $ per share. If the underwriters fully exercise their option, the number of shares held by new investors will increase to shares of our common stock, or approximately % of the total number of shares of our common stock outstanding after this offering.

The foregoing tables and calculations (other than historical net tangible book value calculations) are based on the 169,640,327 shares of our common stock outstanding as of June 30, 2021 (including the conversion of all outstanding shares of our redeemable convertible preferred stock and the exercise of outstanding warrants into 142,127,985 shares of our common stock immediately prior to the completion of this offering), and excludes:

- 31,451,996 shares of our common stock issuable upon the exercise of options outstanding as of June 30, 2021, with a weighted-average exercise price of $0.98 per share;
- 930,000 shares of our common stock issuable upon the exercise of options granted after June 30, 2021, with a weighted-average exercise price of $1.83 per share;
- 5,440,298 shares of our common stock that remain available for issuance under our 2008 Plan as of June 30, 2021;
- shares of our common stock reserved for future issuance under our 2021 Plan, which will become effective in connection with this offering (and which excludes any potential annual evergreen increases pursuant to the terms of the 2021 Plan); and

- shares of our common stock reserved for future issuance under our ESPP, which will become effective in connection with this offering (and which excludes any potential annual evergreen increases pursuant to the terms of the ESPP).

To the extent any options or similar rights are granted and exercised in the future, there may be additional economic dilution to new investors.

In addition, we may choose to raise additional capital due to market conditions or strategic considerations, even if we believe we have sufficient funds for our current or future operating plans. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the issuance of these securities could result in further dilution to our stockholders.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our financial condition and results of operations together with the section titled "Prospectus Summary—Summary Consolidated Financial Data," and our consolidated financial statements and related notes included elsewhere in this prospectus. In addition to historical financial information, the following discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions. Our actual results and timing of selected events may differ materially from those anticipated in these forward-looking statements as a result of many factors, including those discussed in the section titled "Risk Factors" and elsewhere in this prospectus. Please also see the section titled "Special Note Regarding Forward-Looking Statements."

Overview

We are a commercial-stage surgical robotics company focused on advancing patient care by developing transformative solutions in urology. We develop, manufacture and sell the AquaBeam Robotic System, an advanced, image-guided, surgical robotic system for use in minimally invasive urologic surgery, with an initial focus on treating benign prostatic hyperplasia, or BPH. BPH is the most common prostate disease and impacts approximately 40 million men in the United States. The AquaBeam Robotic System employs a single-use disposable handpiece to deliver our proprietary Aquablation therapy, which combines real-time, multi-dimensional imaging, personalized treatment planning, automated robotics and heat-free waterjet ablation for targeted and rapid removal of prostate tissue. We designed our AquaBeam Robotic System to enable consistent and reproducible BPH surgery outcomes. We believe that Aquablation therapy represents a paradigm shift in the surgical treatment of BPH by addressing compromises associated with alternative surgical interventions. We designed Aquablation therapy to deliver effective, safe and durable outcomes for males suffering from LUTS due to BPH that are independent of prostate size and shape or surgeon experience. We have developed a significant and growing body of clinical evidence, which includes nine clinical studies and over 100 peer-reviewed publications, supporting the benefits and clinical advantages of Aquablation therapy. As of June 30, 2021, we had an installed base of 124 AquaBeam Robotic Systems, and Aquablation therapy has been utilized in the treatment of more than 5,500 patients whose prostates have ranged in size from less than 30 ml to over 300 ml.

Our U.S. pivotal trial, the WATER study, is the only FDA pivotal study randomized against transurethral resection of prostate, or TURP, which is the historical standard of care for the surgical treatment of BPH. In this study, Aquablation therapy demonstrated superior safety and non-inferior efficacy compared to TURP across prostate sizes between 30 ml and 80 ml, and superior efficacy in a subset of patients with prostates larger than 50 ml. We have established strong relationships with key opinion leaders, or KOLs, within the urology community and collaborated with key urological societies in global markets. This support has been instrumental in facilitating broader acceptance and adoption of Aquablation therapy. As a result of our strong KOL network and our compelling clinical evidence, Aquablation therapy has been added to clinical guidelines of various professional associations, including the American Urological Association.

In the United States, we sell our products to hospitals. We are initially targeting 860 high-volume hospitals that perform, on average, more than 200 resective procedures annually and account for approximately 70% of all hospital-based resective procedures. Over time, we will gradually expand our focus to also include mid- and low-volume hospitals. These customers in turn bill various third-party payors, such as commercial payors and government agencies, for treatment payment of each patient. Effective in 2021, all local Medicare Administrative Contractors, or MACs, which represent 100% of eligible Medicare patients, issued final positive local coverage determinations to provide Medicare beneficiaries with access to Aquablation therapy in all 50 states. We also have favorable coverage decisions from several large commercial payors, including Anthem, BlueCross – Massachusetts, Emblem Health, Health Care Service Corp, and Humana. We plan to leverage these recent successes in our active discussions with all commercial payors to establish additional positive national and regional coverage policies. Outside of the United States, we have ongoing efforts in key markets to expand established coverage and improve payment which we believe will expand patient access to Aquablation therapy.

We primarily sell our products through our direct sales organization in the United States. As of June 30, 2021, we employed a Vice President of U.S. sales, a sales director and 24 sales professionals, including four sales managers, 10 robotic sales representatives, and 10 Aquablation sales representatives who focus on driving utilization. Our sales personnel are supported by a team of three reimbursement specialists. We also employ ten clinical specialists and professional education employees, who are responsible for training and supporting surgeons, and two field service employees, who support our customers. We intend to expand the size of our direct sales organization in the United States to support our efforts for adoption and utilization of Aquablation therapy. Outside the United States, our commercialization strategy is focused on large addressable markets through a broad range of market development activities, including increasing awareness, obtaining regulatory approvals and establishing reimbursement. We sell our products using both our direct sales organization and, in certain regions, our network of distribution partners. In EMEA, our direct sales organization is currently primarily focused on Germany, France, the United Kingdom, Switzerland and Austria. In other countries, such as Italy and Spain, we engage distribution partners to assist us with market development and sales activities. As of June 30, 2021, we employed nine personnel members to support sales and marketing activities in EMEA. We will opportunistically choose distribution partners with clinical and marketing expertise to enter new markets. In the Asia-Pacific region, we are focused on obtaining local regulatory clearances with the assistance of our distribution partners in this region. We have regulatory approval in Hong Kong, where we are engaged with a distribution partner for market development activities.

We manufacture the AquaBeam Robotic System, the handpiece, integrated scope and other accessories at our facility in Redwood City, California. This includes supporting the supply chain distribution and logistics of the various components. Components, sub-assemblies and services required to manufacture our products are purchased from numerous global suppliers. Each AquaBeam Robotic System is shipped to our customers with a third-party manufactured ultrasound system and probe. We utilize a well-known third-party logistics provider located in the United States and the Netherlands to ship our products to our customers globally.

We generated revenue of $7.7 million and incurred a net loss of $53.0 million for the year ended December 31, 2020, compared to revenue of $6.2 million and a net loss of $42.0 million for the year ended December 31, 2019. We generated revenue of $15.7 million and incurred a net loss of $27.4 million for the six months ended June 30, 2021, compared to revenue of $2.4 million and a net loss of $25.7 million for the six months ended June 30, 2020. As of June 30, 2021, we had cash and cash equivalents of $159.2 million and an accumulated deficit of $229.1 million.

Our primary sources of capital have been from private placements of redeemable convertible preferred securities and debt financing agreements. As of June 30, 2021, we have raised $337.1 million from private placements of redeemable convertible preferred securities from our investors, net of issuance costs. We expect our expenses will increase for the foreseeable future, in particular as we continue to make substantial investments in sales and marketing, operations and research and development. Moreover, we expect to incur additional expenses as a result of operating as a public company, including legal, accounting, insurance, compliance with the rules and regulations of the SEC and those of any stock exchange on which our securities are traded, investor relations, and other administrative and professional services expenses. Based on our operating plan, we currently believe that our existing cash and cash equivalents, anticipated revenue and available debt financing arrangements will be sufficient to meet our capital requirements and fund our operations through at least the next twelve months from the date of this prospectus. If these sources are insufficient to satisfy our liquidity requirements, we may seek to sell additional public or private equity or debt securities or obtain an additional credit facility. The sale of equity and convertible debt securities may result in dilution to our stockholders and, in the case of preferred equity securities or convertible debt, those securities could provide for rights, preferences or privileges senior to those of our common stock. Debt financing, if available, may involve covenants restricting our operations or our ability to incur additional debt. Any debt financing or additional equity that we raise may contain terms that are not favorable to us or our stockholders. Additional financing may not be available at all, or in amounts or on terms unacceptable to us. If we are unable to obtain additional financing, we may be required to delay the development, commercialization and marketing of our products.

Factors Affecting Our Performance

We believe there are several important factors that have impacted and that we expect will impact our operating performance and results of operations for the foreseeable future. While these factors may present significant opportunities for us, they also pose significant risks and challenges that we must address. See the section titled "Risk Factors" for more information. These factors include:

- *Grow our installed base of AquaBeam Robotic Systems:* As of June 30, 2021, we had an installed base of 124 AquaBeam Robotic Systems. In the United States, we are initially focused on driving adoption of Aquablation therapy among urologists that perform hospital-based resective BPH surgery. We are initially targeting 860 high-volume hospitals that we estimate perform, on average, more than 200 resective procedures annually and account for approximately 70% of all hospital-based resective procedures. To penetrate these hospitals, we will continue to increase our direct team of capital sales representatives, who are focused on driving system placement within hospitals by engaging with key surgeons and decision makers to educate them about the compelling value proposition of Aquablation therapy. As we increase our installed base of AquaBeam Robotic systems our revenue will increase as a result of the system sale and resulting utilization.

- *Increase system utilization:* Our revenue is significantly impacted by the utilization of our AquaBeam robotic system. As of June 30, 2021, Aquablation therapy has been utilized in the treatment of more than 5,500 patients. Once we place a system within a hospital our objective is to establish Aquablation therapy as the surgical treatment of choice for BPH. Within each hospital we are initially focused on targeting urologists who perform medium-to-high volumes of resective procedures and converting their resective cases to Aquablation therapy. To accomplish this, we will continue expanding our team of highly trained Aquablation representatives and clinical specialists who are focused on driving system utilization within the hospital, providing education and training support and ensuring excellent user experiences. As urologists gain experience with Aquablation therapy we will leverage their experiences to capture more surgical volumes and establish Aquablation therapy as the surgical standard of care.

- *Reimbursement and coverage decisions by third-party payors.* Healthcare providers in the United States generally rely on third-party payors, principally federal Medicare, state Medicaid and private health insurance plans, to cover all or part of the cost of procedures using our AquaBeam Robotic System. The revenue we are able to generate from sales of our products depends in large part on the availability of sufficient reimbursement from such payors. Effective in 2021, all local MACs, representing 100% of eligible Medicare patients, issued final positive local coverage determinations to provide Medicare beneficiaries with access to Aquablation therapy in all 50 states. We believe that these favorable coverage decisions have been a catalyst for hospital adoption of our AquaBeam Robotic System. Our strong body of clinical evidence and support from key societies, supplemented by the momentum from Medicare coverage, have led to favorable coverage decisions from several large commercial payors, including Anthem, BlueCross – Massachusetts, Emblem Health, Health Care Service Corp and Humana. We plan to leverage these recent successes in our active discussions with commercial payors to establish additional positive national and regional coverage policies. We believe that additional commercial payor coverage will contribute to increasing utilization of our system over time. Outside of the United States, we have ongoing efforts in key markets to expand established coverage and further improve patient access to Aquablation therapy.

- *Cost of sales.* The results of our operations will depend, in part, on our ability to increase our gross margins by more effectively managing our costs to produce our AquaBeam Robotic System and single-use disposable handpieces, and to scale our manufacturing operations efficiently. We anticipate that as we expand our sales and marketing efforts and drive further sales growth, our purchasing costs on a per unit basis may decrease, and in turn improve our gross margin. As our commercial operations continue to grow, we expect to continue to realize operating leverage through increased scale efficiencies.

- *Investment in research and development to drive continuous improvements and innovation.* We are currently developing additional and next generation technologies to support and improve Aquablation

therapy to further satisfy the evolving needs of surgeons and their patients as well as to further enhance the usability and scalability of the AquaBeam Robotic System. We also plan to leverage our treatment data and software development capabilities to integrate artificial intelligence and machine-learning to enable computer-assisted anatomy recognition and improved treatment planning and personalization. Our future growth is dependent on these continuous improvements which require significant resources and investment.

Impact of the COVID-19 Pandemic

The COVID-19 outbreak has negatively impacted and may continue to negatively impact our operations, revenue and overall financial condition. In response to the pandemic, numerous state and local jurisdictions imposed, and others in the future may impose, "shelter-in-place" orders, quarantines, executive orders, and similar government orders and restrictions for their residents to control the spread of COVID-19. Starting in mid-March 2020, the governor of California, where our headquarters are located, issued "shelter-in-place" or "stay at home" orders restricting non-essential activities, travel, and business operations, subject to certain exceptions for necessary activities. Such orders or restrictions have resulted in our headquarters closing, slowdowns and delays, travel restrictions, and cancellation of training and other events, among other effects, thereby negatively impacting our operations. Additionally, in the United States, governmental authorities have recommended, and in certain cases required, that elective, specialty and other procedures and appointments be suspended or canceled to avoid non-essential patient exposure to medical environments and potential infection with COVID-19 and to focus limited resources and personnel capacity toward the treatment of COVID-19.

These measures and challenges have decreased the number of BPH procedures generally, and consequently slowed adoption of our AquaBeam therapy and impacted our ability to sell our AquaBeam Robotic System. We believe the number of our systems sold has been impacted as health care organizations globally have prioritized the treatment of patients with COVID-19. Numerous procedures have been and in certain jurisdictions in which we operate are continuing to be cancelled or delayed as a result of local public health measures and hospital policies. We have also experienced disruptions, and may experience future disruptions, including: delays in sales personnel becoming fully trained and productive; difficulties and delays in physician outreach and training physicians to use our AquaBeam Robotic System; restrictions on personnel to travel; delays in follow-ups of our clinical studies; challenges with maintaining adequate supply from third-party manufacturers of components and finished goods and distribution providers; and access to physicians for training and case support.

While many restrictions associated with COVID-19 have more recently been relaxed, the longevity and extent of the various COVID-19 pandemic remains uncertain, including due to the emergence and impact of the COVID-19 variants. These measures and challenges may continue for the duration of the pandemic and may negatively impact our revenue growth while the pandemic continues.

Components of Our Results of Operations

Revenue

We generate our revenue primarily from the capital portion of our business, which includes sales and rentals of our AquaBeam Robotic System, and from the recurring revenue associated with sales of our single-use disposable handpieces that are used during each surgery performed with our system. The initial sale of an AquaBeam Robotic System involves a capital purchase by the hospital, which may require approval of senior management at the hospital, or in some cases, inclusion in the hospital's budget process. Other revenue is derived primarily from service and repair and extended warranty contracts with our existing customers. We expect our revenue to increase in absolute dollars for the foreseeable future as we continue to focus on driving adoption of Aquablation therapy, including eventually to mid- and low-volume hospitals, and increased system utilization, though it may fluctuate from quarter to quarter.

The following table presents revenue by significant geographical locations for the periods indicated:

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
United States	34 %	53 %	40 %	82 %
Outside the United States	66 %	47 %	60 %	18 %
Germany	28 %	31 %	24 %	*
Italy	19 %	*	*	*
Austria	*	*	18 %	*
Switzerland	*	*	14 %	*

* Less than 10% of total net revenues for the period indicated.

We expect that both our U.S. and international revenue will increase in the near term as we continue to expand the installed base of AquaBeam Robotic Systems and increase the related patient utilization in the United States. We expect our increase in revenues in absolute dollars to be larger in the United States.

Cost of Sales and Gross Margin

Cost of sales consists primarily of manufacturing overhead costs, material costs, direct labor and other direct costs such as shipping costs. A significant portion of our cost of sales currently consists of manufacturing overhead costs. These overhead costs include compensation for personnel, including stock-based compensation, facilities, equipment and operations supervision, quality assurance and material procurement. We expect our cost of sales to increase in absolute dollars for the foreseeable future primarily as, and to the extent, our revenue grows, or we make additional investments in our manufacturing capabilities, though it may fluctuate from quarter to quarter.

We calculate gross margin percentage as gross profit divided by revenue. Our gross margin has been and will continue to be affected by a variety of factors, primarily, product and geographic mix and the resulting average selling prices, production volumes, manufacturing costs and product yields, and to a lesser extent the implementation of cost reduction strategies. We expect our gross margin to increase over the long term as our production volume increases and as we spread the fixed portion of our manufacturing overhead costs over a larger number of units produced, thereby significantly reducing our per unit manufacturing costs, though it may fluctuate from quarter to quarter. Our gross margins can fluctuate due to geographic mix. To the extent we sell more systems and handpieces in the United States, we expect our margins will increase due to the higher average selling prices as compared to sales outside of the United States.

Operating Expenses

Research and Development

Research and development, or R&D, expenses consist primarily of engineering, product development, regulatory affairs, consulting services, materials, depreciation and other costs associated with products and technologies being developed. These expenses include employee and non-employee compensation, including stock-based compensation, supplies, materials, quality assurance expenses, consulting, related travel expenses and facilities expenses. We expect our R&D expenses to increase in absolute dollars for the foreseeable future as we continue to develop, enhance and commercialize new products and technologies, though it may fluctuate from quarter to quarter. However, we expect our R&D expenses as a percentage of revenue to vary over time depending on the level and timing of initiating new product development efforts.

Selling, General and Administrative

Selling, general and administrative, or SG&A, expenses consist primarily of compensation for personnel, including stock-based compensation, related to selling, marketing, clinical affairs, professional education, finance, information technology, and human resource functions. SG&A expenses also include commissions, training, travel

expenses, promotional activities, conferences, trade shows, professional services fees, audit fees, legal fees, insurance costs and general corporate expenses including allocated facilities-related expenses. Clinical expenses include clinical trial design, clinical site reimbursement, data management and travel expenses. We expect our SG&A expenses to increase in absolute dollars for the foreseeable future as we expand our commercial infrastructure and incur additional fees associated with operating as a public company, including legal, accounting, insurance, compliance with the rules and regulations of the SEC and those of any stock exchange on which our securities are traded, investor relations, and other administrative and professional services expenses, though it may fluctuate from quarter to quarter. However, over time, we expect our SG&A expenses to decrease as a percentage of revenue.

Interest and Other Income (Expense), Net

Interest Expense

Interest expense consists primarily of interest expense from our loan payable.

Interest and Other Income (Expense), Net

Interest and other income (expense), net, consists primarily of interest income from our cash and cash equivalents balances, and fair value adjustments from our redeemable convertible preferred stock warrant liabilities and our loan facility derivative liability.

In connection with our sales of redeemable convertible preferred stock, we issued warrants to purchase shares of our Series B, Series D and Series E redeemable convertible preferred stock. We classify these warrants as a liability on our balance sheets that we remeasure to fair value at each reporting date with the corresponding change in fair value being recognized in our statements of operations. Upon the completion of this offering, the redeemable convertible preferred stock warrant liability will be reclassified to additional paid-in capital in stockholders' deficit.

Additionally, in connection with the loan facility, we are obligated to pay a fee upon the earlier occurrence of a defined liquidity event, including but not limited to, a merger or sale of our assets or voting stock, or our achieving a $200 million trailing twelve months revenue target, in each case, by September 2029. The fee is calculated at the time of the liquidity event occurrence to be $1 million if only the first installment has been drawn, $2 million if the first two installments have been drawn, $2.4 million if the first three installments have been drawn, or $3 million if all four installments have been drawn, in each case, upon the occurrence of the liquidity event. We adjust the carrying values of the loan facility derivative liability for changes in fair value and recognize those changes in interest and other income expense.

Results of Operations

Comparison of Six Months Ended June 30, 2020 and 2021

The following table shows our results of operations for the six months ended June 30, 2020 and 2021:

	Six Months Ended June 30,		Change	
	2020	2021	$	%
	(in thousands, except percentages) (unaudited)			
Revenue	$ 2,389	$ 15,668	$ 13,279	556 %
Cost of sales	4,082	8,558	4,476	110
Gross profit	(1,693)	7,110	8,803	520
Gross margin	*(71)%*	*45 %*		
Operating expenses:				
Research and development	7,839	8,998	1,159	15
Selling, general and administrative	14,084	22,648	8,564	61
Total operating expenses	21,923	31,646	9,723	44
Loss from operations	(23,616)	(24,536)	(920)	(4)
Interest expense	(2,103)	(2,900)	(797)	(38)
Interest and other income (expense), net	(13)	34	47	362
Net loss	$ (25,732)	$ (27,402)	(1,670)	(6)

Revenue

	Six Months Ended June 30,		Change	
	2020	2021	$	%
	(in thousands, except percentages) (unaudited)			
System sales and rentals	$ 1,203	$ 10,574	$ 9,371	779 %
Hand pieces and other consumables	1,160	4,767	3,607	311
Service	26	327	301	1,158
Total revenue	$ 2,389	$ 15,668	13,279	556

Revenue increased $13.3 million, or 556%, to $15.7 million during the six months ended June 30, 2021, compared to $2.4 million during the six months ended June 30, 2020. The growth in revenue was primarily attributable to an increase of $11.7 million in unit sales of both our AquaBeam Robotic System and our single-use disposable handpieces in the United States resulting from the expansion of our sales and marketing organizations. In addition, sales of both our AquaBeam Robotic System and our single-use disposable handpieces outside of the United States increased by $1.3 million.

Cost of Sales and Gross Margin

Cost of sales increased $4.5 million, or 110%, to $8.6 million during the six months ended June 30, 2021, compared to $4.1 million during the six months ended June 30, 2020. The increase in cost of sales was primarily attributable to the growth in the number of units sold.

Gross margin increased to 45% during the six months ended June 30, 2021, compared to a negative 71% for the six months ended June 30, 2020. The increase in gross margin was primarily attributable to the growth in unit sales, which allowed us to spread the fixed portion of our manufacturing overhead costs over more production units, and a higher percentage of sales in the United States.

Research and Development Expenses

R&D expenses increased $1.2 million, or 15%, to $9.0 million during the six months ended June 30, 2021, compared to $7.8 million during the six months ended June 30, 2020. The increase in R&D expenses was primarily due to employee-related expenses of our R&D organization. These expenses support ongoing product improvements and the development of additional and next generation technologies.

Selling, General and Administrative Expenses

SG&A expenses increased $8.5 million, or 61%, to $22.6 million during the six months ended June 30, 2021, compared to $14.1 million during the six months ended June 30, 2020. The increase in SG&A expenses was primarily due to employee-related expenses of our sales and marketing, reimbursement and administrative organizations as we expanded our infrastructure to drive and support the anticipated growth in revenue.

Interest Expense

Interest expense increased $0.8 million to $2.9 million during the six months ended June 30, 2021, compared to $2.1 million during the six months ended June 30, 2020. The increase was due to increased borrowings under our debt financing arrangements.

Interest and Other Income (Expense), Net

Interest and other income (expense), net, was consistent during the six months ended June 30, 2020 and 2021.

Comparison of Years Ended December 31, 2019 and 2020

The following table shows our results of operations for the years ended December 31, 2019 and 2020:

	Year Ended December 31,		Change	
	2019	2020	$	%
	(in thousands, except percentages)			
Revenue	$ 6,169	$ 7,717	$ 1,548	25 %
Cost of sales	8,054	8,972	918	11
Gross profit	(1,885)	(1,255)	630	33
Gross margin	*(31)%*	*(16)%*		
Operating expenses:				
Research and development	13,147	16,275	3,128	24
Selling, general and administrative	28,518	30,272	1,754	6
Total operating expenses	41,665	46,547	4,882	12
Loss from operations	(43,550)	(47,802)	(4,252)	(10)
Interest expense	(724)	(5,261)	(4,537)	(627)
Interest and other income (expense), net	2,299	44	(2,255)	(98)
Net loss	$ (41,975)	$ (53,019)	(11,044)	(26)

Revenue

	Year Ended December 31,		Change	
	2019	2020	$	%
	(in thousands, except percentages)			
System sales and rentals	$ 3,532	$ 4,158	$ 626	18 %
Hand pieces and other consumables	2,623	3,421	798	30
Service	14	138	124	886
Total revenue	$ 6,169	$ 7,717	1,548	25

Revenue increased $1.5 million, or 25%, to $7.7 million during the year ended December 31, 2020, compared to $6.2 million during the year ended December 31, 2019. The growth in revenue was primarily attributable to an increase of $2.0 million in unit sales of both our AquaBeam Robotic System and our single-use disposable handpieces in the United States resulting from the expansion of our sales and marketing organizations. This increase was partially offset by a decrease of $0.5 million in sales outside of the United States, resulting primarily from a decrease in system sales.

Cost of Sales and Gross Margin

Cost of sales increased $0.9 million, or 11%, to $9.0 million during the year ended December 31, 2020, compared to $8.1 million during the year ended December 31, 2019. The increase in cost of sales was primarily attributable to the growth in the number of units sold.

Gross margin increased to a negative 16% during the year ended December 31, 2020, compared to a negative 31% for the year ended December 31, 2019. The increase in gross margin was primarily attributable to the growth in unit sales, which allowed us to spread the fixed portion of our manufacturing overhead costs over more production units, and a higher percentage of sales in the United States.

Research and Development Expenses

R&D expenses increased $3.1 million, or 24%, to $16.3 million during the year ended December 31, 2020, compared to $13.1 million during the year ended December 31, 2019. The increase in R&D expenses was primarily due to employee-related expenses of our R&D organization. These expenses support ongoing product improvements and the development of additional and next generation technologies.

Selling, General and Administrative Expenses

SG&A expenses increased $1.8 million, or 6%, to $30.3 million during the year ended December 31, 2020, compared to $28.5 million during the year ended December 31, 2019. The increase in SG&A expenses was primarily due to employee-related expenses of our sales and marketing, reimbursement and administrative organizations as we expanded our infrastructure to drive and support the anticipated growth in revenue.

Interest Expense

Interest expense increased $4.5 million to $5.3 million during the year ended December 31, 2020, compared to $0.7 million during the year ended December 31, 2019. The increase was due to increased borrowings under our debt financing arrangements.

Interest and Other Income (Expense), Net

Interest and other income (expense), net, decreased $2.2 million to $0.1 million during the year ended December 31, 2020, compared to $2.3 million during the year ended December 31, 2019. The decrease in other income (expense), net was primarily attributable to a decrease in interest income of $1.0 million primarily due to lower interest rates. In addition, during the year ended December 31, 2019, the fair value of our preferred stock warrant liability decreased by $1.0 million due to the shorter remaining time to expiration.

Liquidity and Capital Resources

Overview

Our primary sources of capital have been from private placements of redeemable convertible preferred securities and debt financing agreements. As of June 30, 2021, we have raised $337.1 million from private placements of redeemable convertible preferred securities from our investors, net of issuance costs.

As of June 30, 2021, we had cash and cash equivalents of $159.2 million, an accumulated deficit of $229.1 million, and $50.0 million outstanding on our loan facility. We expect our expenses will increase for the foreseeable future, in particular as we continue to make substantial investments in sales and marketing, operations and research and development. Moreover, we expect to incur additional expenses as a result of operating as a public company, including legal, accounting, insurance, compliance with the rules and regulations of the SEC and those of any stock exchange on which our securities are traded, investor relations, and other administrative and professional services expenses. Our future funding requirements will depend on many factors, including:

- the degree and rate of market acceptance of our products and Aquablation therapy;
- the scope and timing of investment in our sales force and expansion of our commercial organization;
- the impact on our business from the ongoing and global COVID-19 pandemic and the end of the COVID-19 pandemic, or any other pandemic, epidemic or outbreak of an infectious disease;
- the scope, rate of progress and cost of our current or future clinical trials and registries;
- the cost of our research and development activities;
- the cost and timing of additional regulatory clearances or approvals;
- the costs associated with any product recall that may occur;
- the costs associated with the manufacturing of our products at increased production levels;
- the costs of attaining, defending and enforcing our intellectual property rights;
- whether we acquire third-party companies, products or technologies;
- the terms and timing of any other collaborative, licensing and other arrangements that we may establish;
- the emergence of competing technologies or other adverse market developments; and
- the rate at which we expand internationally.

Based on our operating plan, we currently believe that our existing cash and cash equivalents, anticipated revenue and available debt financing arrangements will be sufficient to meet our capital requirements and fund our operations through at least the next twelve months from the date of this prospectus. We have based this estimate on assumptions that may prove to be wrong, and we may need to utilize additional available capital resources. If these sources are insufficient to satisfy our liquidity requirements, we may seek to sell additional public or private equity or debt securities or obtain an additional credit facility. The sale of equity and convertible debt securities may result in dilution to our stockholders and, in the case of preferred equity securities or convertible debt, those securities could provide for rights, preferences or privileges senior to those of our common stock. Debt financing, if available, may involve covenants restricting our operations or our ability to incur additional debt. Any debt financing or additional equity that we raise may contain terms that are not favorable to us or our stockholders. Additional financing may not be available at all, or in amounts or on terms unacceptable to us. If we are unable to obtain additional financing, we may be required to delay the development, commercialization and marketing of our products.

Indebtedness

In September 2019, we entered into a loan facility for up to $75.0 million available in four installments. We borrowed $25.0 million in September 2019 and an additional $25.0 million in March 2020. The third installment is for $10.0 million and was originally available for draw through March 31, 2021 contingent upon our achieving $20.0 million trailing six months revenue in any month before March 31, 2021.

The remaining $15.0 million was originally available for draw through June 30, 2021 contingent upon achieving $25.0 million in trailing six months revenue. In January 2021, the third installment was amended to be available for draw through March 31, 2022 contingent upon our achieving $6.4 million trailing six months revenue prior to June 30, 2021, and the fourth installment was amended to be available for draw though June 30, 2022. The facility bears an interest rate of the greater of (i) 9.37% and (ii) 7.17% plus 30-day LIBOR. The facility includes customary negative covenants that, among other things, restrict our ability to incur indebtedness or enter into certain change of control transactions. It also contains customary events of default that would result in the termination of the commitments under the facility and permit the lender to accelerate payment on outstanding borrowings. As of June 30, 2021, we were in compliance with all covenants under the facility. The initial term of the facility is 60 months with interest-only payments, with the repayment of principal being amortized over a period of: 36 months, if we fail to achieve the revenue target for the third installment, 24 months if we achieve the revenue target for the third installment but have not raised at least $50.0 million in an initial public offering, or 12 months if we achieve the revenue target for the third installment and raise at least $50.0 million in an initial public offering. We pledged substantially all of our assets as collateral for the loan. Commencing with the quarter ended June 30, 2021, we are required to achieve revenue for the previous six months ended equal to 70% of the forecast for the commensurate quarterly period. Additionally, in connection with the loan facility, we are obligated to pay a fee upon the earlier occurrence of a defined liquidity event, including but not limited to, a merger or sale of our assets or voting stock, or our achieving a $200.0 million trailing twelve months revenue target, in each case, by September 2029. The fee is calculated at the time of the liquidity event occurrence to be $1.0 million if only the first installment has been drawn, $2.0 million if the first two installments have been drawn, $2.4 million if the first three installments have been drawn, or $3.0 million if all four installments have been drawn, in each case, upon the occurrence of the liquidity event. As of June 30, 2021, we had $50.0 million outstanding under the loan facility.

Cash Flows

The following table summarizes our cash flows for the years ended December 31, 2019 and 2020 and the six months ended June 30, 2020 and 2021:

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
	(in thousands)			
			(unaudited)	
Net cash (used in) provided by:				
Operating activities	$ (43,818)	$ (48,343)	$ (23,950)	$ (28,107)
Investing activities	43,153	(233)	(204)	(149)
Financing activities	26,527	106,771	27,296	87,350
Net increase in cash, cash equivalents and restricted cash	$ 25,862	$ 58,195	$ 3,142	$ 59,094

Net Cash Used in Operating Activities

During the six months ended June 30, 2021, net cash used in operating activities was $28.1 million, consisting primarily of a net loss of $27.4 million and an increase in net operating assets of $4.2 million, partially offset by non-cash charges of $3.5 million. The cash used in operations was primarily due to the increase in net loss primarily due to the increase in operating expenses to support our commercialization and development activities and interest expense payable on our outstanding loan. The expansion of our commercialization and development activities

resulted in an increase in accounts receivable, inventory and prepaid expenses, partially offset by an increase in accounts payable. Non-cash charges consisted primarily of depreciation and stock-based compensation.

During the six months ended June 30, 2020, net cash used in operating activities was $24.0 million, consisting primarily of a net loss of $25.7 million and an increase in net operating assets of $0.6 million, partially offset by non-cash charges of $2.3 million. The cash used in operations was primarily due to the increase in net loss primarily due to the increase in operating expenses to support our commercialization and development activities and interest expense to service the loan payable all of which support the commercialization and development. The increase in net operating assets was primarily due to a decrease in accounts payable, and an increase in inventory, prepaid expenses and accounts receivable, partially offset by an increase in accrued interests and compensation. Non-cash charges consisted primarily of depreciation and stock-based compensation.

During the year ended December 31, 2020, net cash used in operating activities was $48.3 million, consisting primarily of a net loss of $53.0 million and an increase in net operating assets of $0.5 million, partially offset by non-cash charges of $5.2 million. The cash used in operations was primarily due to the increase in net loss primarily due to the increase in operating expenses and interest expense to service the loan payable all of which support the commercialization and development. The expansion of our commercialization and development activities resulted in an increase in inventory, partially offset by an increase in accrued compensation and interest. Non-cash charges consisted primarily of depreciation and stock-based compensation.

During the year ended December 31, 2019, net cash used in operating activities was $43.8 million, consisting primarily of a net loss of $42.0 million and an increase in net operating assets of $3.5 million, partially offset by non-cash charges of $1.7 million. The increase in net operating assets was primarily due to an increase in inventory to support our commercial launch. Non-cash charges consisted primarily of stock-based compensation and depreciation, partially offset by a decrease in the fair value of our redeemable convertible preferred stock warrants.

Net Cash (Used in) Provided by Investing Activities

During the six months ended June 30, 2021, net cash used in investing activities was $0.1 million, consisting of purchases of property and equipment. During the six months ended June 30, 2020, net cash used in investing activities was $0.2 million, consisting of purchases of property and equipment.

During the year ended December 31, 2020, net cash used in investing activities was $0.2 million, consisting of purchases of property and equipment. During the year ended December 31, 2019, net cash provided by investing activities was $43.2 million, consisting primarily of sales and maturities of short-term investments of $50.8 million, partially offset by purchases of property and equipment of $7.6 million, primarily related to non-recurring leasehold improvements associated with our corporate headquarters.

Net Cash Provided by Financing Activities

During the six months ended June 30, 2021, net cash provided by financing activities was $87.4 million, consisting primarily of net proceeds from the issuance of shares of our Series G redeemable convertible preferred stock of $84.7 million. During the six months ended June 30, 2020, net cash provided by financing activities was $27.3 million, consisting primarily of net proceeds from the issuance of notes payable of $24.7 million.

During the year ended December 31, 2020, net cash provided by financing activities was $106.8 million, consisting primarily of net proceeds from the issuance of shares of our Series F redeemable convertible preferred stock of $76.5 million and notes payable of $24.7 million. During the year ended December 31, 2019, net cash provided by financing activities was $26.5 million, consisting primarily of net proceeds from the issuance of notes payable.

Contractual Commitments and Contingencies

The following is a schedule summarizing our obligations to make future payments under contractual obligations as of December 31, 2020:

	Payments Due by Period				
	Total	1 Year	2 Years	3 Years	4 Years
			(in thousands)		
Note Payable[1]	$ 50,000	$ —	$ 6,250	$ 25,000	$ 18,750
Interest on Note Payable[1]	12,865	4,750	4,651	2,868	596
Operating lease[2]	6,911	2,374	2,445	2,092	—
Total	$ 69,776	$ 7,124	$ 13,346	$ 29,960	$ 19,346

(1) For more information, see Note 5 to our consolidated financial statements included elsewhere in this prospectus.
(2) For more information, see Note 9 to our consolidated financial statements included elsewhere in this prospectus.

Our purchase commitments and obligations include all open purchase orders and contractual obligations in the ordinary course of business, including commitments with contract manufacturers and suppliers, for which we have not received the goods or services. A majority of these purchase obligations are due within a year. Although open purchase orders are considered enforceable and legally binding, the terms generally allow us the option to cancel, reschedule, and adjust our requirements based on our business needs prior to the delivery of goods or performance of services, and hence, have not been included in the table above.

Off-Balance Sheet Arrangements

We did not have during the periods presented, and we do not currently have any off-balance sheet arrangements, such as structured finance, special purpose entities or variable interest entities.

Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Risk

Cash and cash equivalents of $159.2 million as of June 30, 2021, consisted of securities carried at quoted market prices with an original maturity of three months or less and therefore there is minimal risk associated with fluctuating interest rates. We do not currently use or plan to use financial derivatives in our investment portfolio.

In addition, as described above under the subsection titled “Indebtedness,” amounts outstanding under our loan facility bear interest at a floating rate equal to 7.17% plus the greater of 2.2% or 30-day LIBOR. As a result, we are exposed to risks from changes in interest rates. We do not believe that a hypothetical 100 basis point increase or decrease in interest rates or 30-day LIBOR would have had a material impact on our financial statements included elsewhere in this prospectus at both periods.

Credit Risk

We maintain our cash and cash equivalents with two financial institutions in the United States, and our current deposits are likely in excess of insured limits. We have reviewed the financial statements of these institutions and believe it has sufficient assets and liquidity to conduct its operations in the ordinary course of business with little or no credit risk to us.

Our accounts receivable primarily relate to revenue from the sale or rental of our products. One customer accounted for 11% of accounts receivable at June 30, 2021. We believe that credit risk in our accounts receivable is mitigated by our credit evaluation process, relatively short collection terms and diversity of our customer base.

Foreign Currency Risk

A portion of our net sales and expenses are denominated in foreign currencies, most notably the Euro. Future fluctuations in the value of the U.S. Dollar may affect the price competitiveness of our products outside the United

States. For direct sales outside the United States, we sell in both U.S. Dollars and local currencies, which could expose us to additional foreign currency risks, including changes in currency exchange rates. Our operating expenses in countries outside the United States, are payable in foreign currencies and therefore expose us to currency risk. We do not believe that a hypothetical 10% increase or decrease in the relative value of the U.S. dollar to other currencies would have had a material impact on our financial statements included elsewhere in this prospectus.

We do not currently maintain a program to hedge exposures to non-U.S. dollar currencies.

Effects of Inflation

Inflation generally affects us by increasing our cost of labor and research and development contract costs. We do not believe that inflation had a material effect on our financial statements included elsewhere in this prospectus.

Related Parties

For a description of our related party transactions, see the section titled "Certain Relationships and Related Party Transactions."

Internal Control Over Financial Reporting

In connection with the preparation of our consolidated financial statements, a material weakness in our internal control over financial reporting was identified as of December 31, 2020. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. The material weakness is the result of our failure to design and maintain effective controls over certain information technology, or IT, general controls for information systems that are relevant to the preparation of our financial statements. Specifically, we did not design and maintain:

- program change management controls to ensure that information technology program and data changes affecting financial IT applications and underlying accounting records are identified, tested, authorized and implemented appropriately, and
- user access controls to ensure appropriate segregation of duties and that adequately restrict user and privileged access to financial applications, programs and data to appropriate company personnel.

These IT general control deficiencies did not result in a material misstatement to the financial statements; however, the deficiencies, when aggregated, could impact maintaining effective segregation of duties, as well as the effectiveness of IT-dependent controls (such as automated controls that address the risk of material misstatement to one or more assertions, along with the IT controls and underlying data that support the effectiveness of system-generated data and reports) that could result in misstatements potentially impacting all financial statement accounts and disclosures that would not be prevented or detected. Accordingly, our management determined these deficiencies in the aggregate constitute a material weakness.

We are in the process of designing and implementing measures to remediate the material weakness in our internal control over financial reporting, which includes designing and implementing controls over the review and update of user access rights and privileges, including segregation of duties, and controls over program changes to our information systems that contain data used for financial reporting. While we are designing and implementing measures to remediate the material weakness, we cannot predict the success of such measures or the outcome of our assessment of these measures at this time. We can give no assurance that these measures will remediate the material weakness in our internal control over financial reporting or that additional material weaknesses in our internal control over financial reporting will not be identified in the future. The material weakness will not be considered remediated until management completes the design and implementation of the measures described above and the controls operate for a sufficient period of time and management has concluded, through testing, that these controls are effective. Our failure to design and maintain effective internal control over financial reporting could result in

errors in our financial statements that may lead to a restatement of our financial statements or cause us to fail to meet our reporting obligations.

Critical Accounting Policies and Estimates

Management's discussion and analysis of our financial condition and results of operations is based on our financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles. The preparation of these financial statements requires us to make estimates and assumptions for the reported amounts of assets, liabilities, revenue, expenses and related disclosures. Our estimates are based on our historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions and any such differences may be material.

While our significant accounting policies are more fully described in Note 2 of our consolidated financial statements included elsewhere in this prospectus, we believe the following discussion addresses our most critical accounting policies, which are those that are most important to the portrayal of our financial condition and results of operations and require our most difficult, subjective and complex judgments.

Revenue Recognition

Revenue is derived primarily from the sales of the AquaBeam Robotic Systems, and handpieces that are for one-time use during each surgery using the AquaBeam Robotic System. The AquaBeam Robotic System contains both software and non-software components that are delivered together as a single product and generally contain a one-year warranty.

To determine revenue recognition for arrangements that we determine are within the scope of Accounting Standards Codification, or ASC, Topic 606, "*Revenue from Contracts with Customers*," or ASC 606, we perform the following five steps: (i) identify the contract with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when, or as, we satisfy the performance obligations. We only apply the five-step model to contracts when it is probable that we will collect the consideration we are entitled to in exchange for the goods or services we transfer to the customer. At contract inception, once the contract is determined to be within the scope of ASC 606, we assess the goods or services promised within each contract and determines those that are performance obligations and assesses whether each promised good or service is distinct based on the contract.

The contracts are typically in the form of a contract and a purchase order from the customer. Our AquaBeam Robotic System sales generally contain multiple products and services and can include a combination of the following performance obligations: robotic system, handpieces and consumables, and service.

The Company determines the transaction price it expects to be entitled to in exchange for transferring the promised product to the customer, which is based on the invoiced price for the products. All prices are at fixed amounts per the sales agreement with the customer and there are generally no discounts, rebates or other price concessions or a right of return, once the agreement is signed.

For multiple-element arrangements, revenue is allocated to each performance obligation based on its relative standalone selling price. Standalone selling prices are based on observable prices at which we separately sell the products or services. If a standalone selling price is not directly observable, then we estimate the standalone selling price considering market conditions and entity-specific factors including, but not limited to, features and functionality of the products and services, geographies, and type of customer. We regularly review standalone selling prices and updates these estimates as necessary.

We recognize revenue as the performance obligations are satisfied by transferring control of the product or service to a customer. We generally recognize revenue for the performance obligations at the following points in time:

AquaBeam Robotic Systems - For systems (including system components and system accessories) sold directly to end customers, revenue is recognized when we transfer control to the customer, which is generally at the time of delivery. Systems rented for a fixed monthly fee during an evaluation period, typically three to 12 months, are recognized as revenue straight-line during the lease term, in accordance with ASC 842, and are not material. For systems sold following an evaluation period, revenue is recognized generally once sales terms are mutually agreed (as the system is already installed at the customer site). For systems sold through distributors, revenue is recognized generally at the time of delivery. Our system arrangements generally do not provide a right of return. The systems are generally covered by a one-year warranty.

Hand pieces and other consumables - Revenue from sales of handpieces and other consumables is recognized when control is transferred to the customers, which generally occurs at the time of shipment but also occurs at the time of delivery.

Service - Service revenue, inclusive of the amounts associated with the AquaBeam Robotic system warranties, is recognized over the term of the service period, as the customer benefits from the services throughout the service period.

We determined that certain promises in the multiple-element arrangements, such as installation, training and certain ancillary products, are immaterial, and/or do not represent separate performance obligations for which transaction price is allocated.

Revenue is recognized when the item is delivered, which is when control is transferred to the customer. Systems rented for a fixed monthly fee during an evaluation period, typically three to 12 months, are recognized as revenue straight line during the lease term, in accordance with ASC 842, and are not material. For systems sold following an evaluation or lease period, revenue is recognized once the sales terms are mutually agreed (as the system is already installed at the customer site). The timing of revenue recognition may differ from the timing of invoicing to customers. We record deferred revenue when revenue is recognized subsequent to invoicing, such as service contracts, which are recognized ratably as revenue over the performance period, which is not material.

Our typical payment terms are between approximately 30 to 90 days. We expense shipping and handling costs as incurred and include them in the cost of sales. In those cases where shipping and handling costs are billed to customers, we classify the amounts billed as a component of revenue. Taxes collected from customers and remitted to governmental authorities are excluded from revenue. We expense any incremental costs of obtaining a contract, including but not limited to, sales commissions, as and when incurred as the expected amortization period of the incremental costs would have been less than one year and are reported in selling, general and administrative expense in the statements of operations and comprehensive loss.

We must make significant assumptions regarding the future collectability of amounts receivable from customers to determine whether revenue recognition criteria have been met. If collectability is not assured at the time of shipment, we defer revenue until such criteria have been met. Our standard terms and conditions of sale do not allow for product returns, and we generally do not allow product returns, except in the case of damaged goods, and we have not experienced any significant returns of our products.

Stock-Based Compensation

We maintain a payment equity incentive plan to provide long-term incentives for employees, consultants and members of the board of directors. The plan allows for the issuance of non-statutory and incentive stock options to employees and non-statutory stock options to consultants and non-employee directors.

We are required to determine the fair value of equity incentive awards and recognize compensation expense for all equity incentive awards granted, including employee stock options. Stock-based compensation expense is recognized over the requisite service period in the statements of operations and comprehensive loss. We use the straight-line method for expense attribution. We amortize all stock-based compensation over the requisite service period of the awards, which is generally the same as the vesting period of the awards. We amortize the grant date fair value on a straight-line basis over the expected service periods. For performance-based grants, we estimate when and if they will be earned. If we consider such award to be probable, we recognize expense over the estimated

service period, which would be the estimated period of performance. If we do not consider such awards probable of achievement, we recognize no amount of stock-based compensation. Additionally, we have elected to account for forfeitures as they occur.

The valuation model used for calculating the fair value of awards for stock-based compensation expense is the Black-Scholes option pricing model. The Black-Scholes option pricing model requires us to make assumptions and judgments about the variables used in the calculation, including the following:

Fair Value of Common Stock. As discussed in the subsection titled "—Common Stock Valuations" below, the fair value of the shares of our common stock underlying the stock options has historically been determined by our board of directors. Because there has been no public market for our common stock, our board of directors has determined the fair value of our common stock at the time of grant of the option by considering a number of objective and subjective factors.

Expected Term. The expected term of stock options represents the weighted-average period that the stock options are expected to remain outstanding. We estimated the expected term based on the simplified method, which is the average of the weighted-average vesting period and contractual term of the option.

Expected Volatility. Since there has been no public market for our common stock and lack of company specific historical volatility, we have determined the share price volatility for options granted based on an analysis of the volatility of a peer group of publicly traded companies. In evaluating similarity, we consider factors such as industry, stage of life cycle and size.

Risk-Free Interest Rate. The risk-free interest rate is based on the U.S. Treasury yield in effect at the time of the grant for zero-coupon U.S. Treasury notes with remaining terms similar to the expected term of the options.

Expected Dividend Rate. We assumed the expected dividend rate to be zero as we have never paid dividends and have no current plans to do so.

See Note 8 to our consolidated financial statements included elsewhere in this prospectus for information concerning certain of the specific assumption we used in applying the Black-Scholes option pricing model to determine the fair value of our stock options granted in the years ended December 31, 2019 and 2020, and the six months ended June 30, 2020 and 2021. If factors change and we employ different assumptions, stock-based compensation expense may differ significantly from what we have recorded in the past. If there are any modifications or cancellations of the underlying unvested securities, we may be required to accelerate, increase or cancel any remaining unearned stock-based compensation expense.

We recorded stock-based compensation expense of $2.0 million and $2.2 million during the years ended December 31, 2019 and 2020, respectively, and $1.0 million and $1.4 million during the six months ended June 30, 2020 and 2021, respectively. As of June 30, 2021, there was $8.9 million, of unrecognized stock-based compensation expense related to unvested common stock options which we expect to recognize over a weighted-average period of 3.0 years. We expect to continue to grant stock options and other equity-based awards in the future, and to the extent that we do, our stock-based compensation expense recognized in future periods is expected to increase.

Based upon an assumed initial public offering price of $ per share, the midpoint of the price range set forth on the cover page of this prospectus, the aggregate intrinsic value of options outstanding as of , 2021 was $ million, of which $ million related to vested options and $ million related to unvested options.

Common Stock Valuations

Our intent has been to grant all options with an exercise price not less than the fair value of our common stock underlying those options on the date of grant. We have determined the estimated fair value of our common stock at each valuation date in accordance with the guidelines outlined in the American Institute of Certified Public Accountants Practice Aid, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation*, or the

Practice Aid. Our board of directors, with the assistance of management, developed these valuations using significant judgment and taking into account numerous factors, including:

- valuations of our common stock with the assistance of independent third-party valuation specialists;
- our stage of development and business strategy, including the status of research and development efforts, of our products and product candidates, and the material risks related to our business and industry;
- our results of operations and financial position, including our levels of available capital resources;
- the valuation of publicly traded companies in the life sciences and medical device sectors, as well as recently completed mergers and acquisitions of peer companies;
- the prices of our redeemable convertible preferred stock sold to investors in arm's length transactions and the rights, preferences, and privileges of our redeemable convertible preferred stock relative to those of our common stock;
- the likelihood of achieving a liquidity event for the holders of our common stock, such as an initial public offering or a sale of our company given prevailing market conditions;
- the inability of our stockholders to freely trade our common stock in the public markets, resulting in a discount to reflect the lack of marketability of our common stock based on the weighted-average expected time to liquidity;
- trends and developments in our industry; and
- external market conditions affecting the life sciences and medical device industry sectors.

Our board of directors determined the fair value of our common stock by first determining the aggregate equity value of our business using the market approach, income approach or from the value implied by the latest round of equity financing, and then allocating the value among the various classes of our equity securities to derive a per share value of our common stock. The Practice Aid identifies various available methods for allocating enterprise value across classes and series of capital stock to determine the estimated fair value of common stock at each valuation date. In accordance with the Practice Aid, we considered the option pricing method, or OPM, under which shares are valued by creating a series of call options with exercise prices based on the liquidation preferences and conversion terms of each equity class. The estimated fair values of the preferred and common stock are inferred by analyzing these options.

For all option grants our board allocated the equity value based on the OPM, which was determined to be the most appropriate method based on our stage of development and other relevant factors. OPM treats the rights of the holders of preferred and common stock as equivalent to call options on any value of the enterprise above certain break points of value based upon the liquidation preferences of the holders of preferred stock, as well as their rights to participation and conversion. Thus, the estimated value of the common stock can be determined by estimating the value of its portion of each of these call option rights. When valuing options granted around the time of an equity financing that is considered arms-length, OPM derives our equity value from the price of our securities issued in the equity financing. Following the closing of this offering, the fair value of our common stock will be determined based on the closing price of our common stock on The Nasdaq Global Market.

Redeemable Convertible Preferred Stock Warrant Liability

We have issued freestanding warrants to purchase shares of convertible preferred stock to investors in connection with sales of certain of our redeemable convertible preferred stock. We classify these warrants as a derivative liability because they contain liquidation features that are not solely within our control. We record the fair value of the warrant on the balance sheet at the inception of such classification and adjust to fair value at each financial reporting date. The changes in the fair value of the warrants are recorded in the statement of operations as a component of interest and other income or expense as appropriate. We will continue to adjust the carrying value of the redeemable convertible preferred stock warrant liability for changes in the fair value of the warrants until the

earlier of: the exercise of the warrants, at which time the liability will be reclassified to temporary equity or the expiration of the warrant, at which time the entire amount would be reversed and reflected in the consolidated statements of operations and comprehensive loss. Our assumptions with regard to the warrant valuation are based on estimates of the valuation of the underlying preferred stock, volatility, interest rate and such estimates could vary significantly.

Loan Facility Derivative Liability

We have determined that our obligation to pay success fees to a lender upon a successful liquidation event or achieving a revenue target represents freestanding financial instruments. The instrument is classified as a long-term liability in the consolidated balance sheets and is subject to remeasurement at each consolidated balance sheet date. Any change in fair value is recognized through other income (expense) in the consolidated statements of operations and comprehensive loss. We adjust the carrying values of the loan facility derivative liability for changes in fair value and will continue to do so until the earlier of cash payment or expiration. The assumptions used in determining the fair value of the obligation require significant judgment.

JOBS Act Accounting Election and Smaller Reporting Company Status

We are an "emerging growth company," as defined in the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. We have elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that we (i) are no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, our consolidated financial statements may not be comparable to companies that comply with new or revised accounting pronouncements as of public company effective dates.

We are also a "smaller reporting company" as defined in the Exchange Act. We may continue to be a smaller reporting company even after we are no longer an emerging growth company. We may take advantage of certain of the scaled disclosures available to smaller reporting companies and will be able to take advantage of these scaled disclosures for so long as our voting and non-voting common stock held by non-affiliates is less than $250.0 million measured on the last business day of our second fiscal quarter, or our annual revenue is less than $100.0 million during the most recently completed fiscal year and our voting and non-voting common stock held by non-affiliates is less than $700.0 million measured on the last business day of our second fiscal quarter.

Recent Accounting Pronouncements

See Note 2 to our consolidated financial statements included elsewhere in this prospectus for additional information.

BUSINESS

Overview

We are a commercial-stage surgical robotics company focused on advancing patient care by developing transformative solutions in urology. We develop, manufacture and sell the AquaBeam Robotic System, an advanced, image-guided, surgical robotic system for use in minimally-invasive urologic surgery, with an initial focus on treating benign prostatic hyperplasia, or BPH. BPH is the most common prostate disease and impacts approximately 40 million men in the United States. Our proprietary AquaBeam Robotic System employs a single-use disposable handpiece to deliver our Aquablation therapy, which combines real-time, multidimensional imaging, personalized treatment planning, automated robotics and heat-free waterjet ablation for targeted and rapid removal of prostate tissue. We believe that Aquablation therapy represents a paradigm shift in the surgical treatment of BPH by addressing compromises associated with alternative surgical interventions. We designed Aquablation therapy to deliver effective, safe and durable outcomes for males suffering from lower urinary tract symptoms, or LUTS, due to BPH that are independent of prostate size and shape or surgeon experience. We have developed a significant and growing body of clinical evidence, which includes nine clinical studies and over 100 peer-reviewed publications, supporting the benefits and clinical advantages of Aquablation therapy. As of June 30, 2021, we had an installed base of 124 AquaBeam Robotic Systems, and Aquablation therapy has been utilized in the treatment of more than 5,500 patients whose prostates have ranged in size from less than 30 ml to over 300 ml.

BPH refers to the non-malignant enlargement of the prostate gland, a small gland in the male reproductive system. The main role of the prostate is to produce the fluid that protects and gives nutrients to sperm. The prostate sits underneath the bladder and surrounds the top part of the urethra, which carries urine from the bladder. As the prostate enlarges, the gland presses against the urethra, which may obstruct or restrict the flow of urine from the bladder and result in uncomfortable LUTS, such as urgency, frequency, urinary retention, straining to urinate and a weak urinary stream. Without treatment, prolonged obstruction may eventually lead to acute urinary retention, urinary tract infections or renal insufficiency.

In the United States it is estimated that approximately 40 million men are impacted by symptoms of BPH, with aging demographics expected to drive future growth. Over the next ten years, it is expected that the number of men over 65 years old in the United States will double and include a corresponding increase in the number of men with enlarged prostates. Of these men, approximately 12 million are being managed by a physician for symptoms related to their disease. Our total addressable patient population in the United States includes approximately 8.2 million patients, comprising 6.7 million receiving drug therapy, 1.1 million who have tried but failed drug therapy and 400,000 undergoing surgical intervention each year. Based on the average selling price of our single-use handpiece, we estimate that our total addressable market opportunity is in excess of $20 billion in the United States. The global incidence of BPH among men over 50 years old is similar to that of the United States, representing a significant incremental market opportunity outside of the United States.

The main goal of BPH treatment is to alleviate the symptoms associated with the disease and improve the patient’s quality of life. While drug therapy is typically a first line treatment option, limited efficacy and negative side effects contribute to low compliance and high failure rates and drop outs. On the other hand, surgical intervention is proven to provide effective and durable symptom relief compared to drug therapy, but the use of surgery is significantly underpenetrated, largely due to the compromise patients must make between the incidence of irreversible side effects associated with alternative resective surgical interventions, where obstructive tissue is removed at the time of intervention, or the lower rates of efficacy and durability associated with non-resective surgical interventions, where obstructive tissue is not removed, but rather the prostatic urethra is re-shaped. In addition, most alternative surgical interventions are limited by prostate size and shape, with no single procedure capable of effectively addressing the full range of prostate anatomies regardless of surgeon experience level.

We began developing our proprietary AquaBeam Robotic System in 2009 to address many of the shortcomings of alternative surgical interventions by delivering our Aquablation therapy, the first and only image-guided robotic therapy for the treatment of BPH. The AquaBeam Robotic System combines real-time image guidance, personalized treatment planning, automated robotic execution and heat-free waterjet ablation. We believe our Aquablation

therapy addresses the compromise between safety and efficacy of alternative surgical interventions, providing the following unique combination of benefits:

- ***Significant and durable symptom relief.*** Given obstructive prostate tissue is removed during the procedure, Aquablation therapy has demonstrated significant and long-lasting levels of symptom relief similar to those of alternative resective procedures. In our U.S. pivotal trial, Waterjet Ablation Therapy for Endoscopic Resection of prostate tissue, or the WATER study, Aquablation therapy demonstrated superior safety and non-inferior efficacy compared to transurethral resection of the prostate, or TURP, the historical standard of care for the surgical treatment of BPH. In the WATER and WATER II studies, surgical retreatment rates at three years were only 4.3% and 3.0%, respectively. In the OPEN WATER study, there were no surgical retreatments at one year. The three-year retreatment rates in the WATER and WATER II studies compare favorably to surgical retreatment rates observed for alternative treatments for BPH. One study published in the BJU International Journal reported on 52,748 men undergoing TURP or PVP with an approximated three-year freedom from surgical retreatment of 92% and 89%, respectively. A second study published in the Journal of Urology reported on 43,041 men undergoing TURP, PVP, enucleation, or open simple prostatectomy with an approximated three-year freedom from surgical retreatment of 93%, 89%, 94%, and 96%, respectively.

- ***Favorable safety profile.*** Aquablation therapy has demonstrated low rates of irreversible complications, including urinary incontinence, erectile dysfunction and ejaculatory dysfunction, compared to published rates observed for other resective surgeries. In our WATER study, patients who underwent Aquablation therapy maintained a higher level of sexual function compared to those who underwent TURP.

- ***Outcomes independent of prostate size and shape and surgeon experience.*** We designed Aquablation therapy to deliver outcomes that are effective, safe and durable for males suffering from LUTS due to BPH across all prostate sizes and shapes. Our WATER, WATER II and OPEN WATER studies enrolled men with prostate sizes between 20 ml and 150 ml; however, in the commercial setting, we have successfully treated men with prostate sizes over 300 ml. Additionally, in the WATER and WATER II studies, 50% and 83% of men, respectively, had an obstructive median lobe, and the average prostate size in each study was 54 ml and 107 ml, respectively. Compared to other resective procedures, we believe Aquablation therapy is relatively simple to learn, enabled by the intuitive user interface of the conformal planning unit, or CPU, and automated robotic resection, and delivers outcomes that are independent of surgeon experience.

- ***Personalized treatment planning and improved decision-making.*** Aquablation therapy combines cystoscopic visualization, which uses a camera attached to a hollow tube, along with ultrasound imaging and advanced planning software to provide the surgeon with a multidimensional view of the treatment area and enable personalized treatment planning for the patient's unique anatomy, improved decision-making and real-time monitoring during the procedure.

- ***Targeted and controlled resection with consistent resection times***. Aquablation therapy utilizes automated robotic resection to remove prostate tissue using a precise, heat-free waterjet. These features enable targeted and controlled tissue removal with rapid resection times that are highly consistent across prostate sizes and shapes and surgeon experience.

We have developed a significant and growing body of clinical data that demonstrate the efficacy, safety and durability of Aquablation therapy, independent of prostate size and shape and surgeon experience. Our robust body of clinical evidence includes nine clinical studies and more than 100 peer-reviewed publications. Our WATER study is the only FDA pivotal study randomized against TURP. In this study, Aquablation therapy demonstrated superior safety and non-inferior efficacy compared to TURP across prostate sizes between 30 ml and 80 ml, and superior efficacy in a subset of patients with prostates larger than 50 ml. We have established strong relationships with KOLs within the urology community and collaborated with key urological societies in global markets. This support has been instrumental in facilitating broader acceptance and adoption of Aquablation therapy. As a result of our strong KOL network and our compelling clinical evidence, Aquablation therapy has been added to clinical guidelines of various professional associations, including the American Urological Association, or AUA.

In the United States, we sell our products to hospitals. These customers in turn bill various third-party payors, such as commercial payors and government agencies, for treatment payment of each patient. Effective in 2021, all local Medicare Administrative Contractors, or MACs, which represent 100% of eligible Medicare patients, issued final positive local coverage determinations to provide Medicare beneficiaries with access to Aquablation therapy in all 50 states. Our strong body of clinical evidence and support from key societies, supplemented by the momentum from Medicare coverage, have led to favorable coverage decisions from several large commercial payors, including Anthem, BlueCross – Massachusetts, Emblem Health, Health Care Service Corp, and Humana. We plan to leverage these recent successes in our active discussions with commercial payors to establish additional positive national and regional coverage policies. Outside of the United States, we have ongoing efforts in key markets to expand established coverage and improve payment which we will believe will expand patient access to Aquablation therapy.

We primarily sell our products through our direct sales organization in the United States, which targets urologists across the United States, who we believe represent the primary physician specialty managing the care of and receiving referrals for patients with BPH. We are initially targeting 860 high-volume hospitals that perform, on average, more than 200 resective procedures annually and account for approximately 70% of all hospital-based resective procedures. We estimate that approximately 50% of BPH patients who are on drug therapy as well as 50% who have failed drug therapy are under the care of a urologist, equating to approximately 3.9 million men. We believe we can reach these patients by continuing to educate our network of urologists of the clinical benefits of Aquablation therapy, provide comprehensive training programs and deepen our relationships with key urologists and various medical societies. As of June 30, 2021, we employed a Vice President of U.S. sales, a sales director and 24 sales professionals, including four sales managers, 10 robotic sales representatives and 10 Aquablation sales representatives, who focus on driving utilization. We intend to expand the size of our direct sales organization in the United States to support our efforts for adoption and utilization of Aquablation therapy. Outside the United States, we sell our products using both our direct sales organization and, in certain regions, our network of distribution partners.

We generated revenue of $7.7 million and incurred a net loss of $53.0 million for the year ended December 31, 2020, compared to revenue of $6.2 million and a net loss of $42.0 million for the year ended December 31, 2019. We generated revenue of $15.7 million and incurred a net loss of $27.4 million for the six months ended June 30, 2021, compared to revenue of $2.4 million and a net loss of $25.7 million for the six months ended June 30, 2020. As of June 30, 2021, we had an accumulated deficit of $229.1 million.

Our Success Factors

We believe the continued growth of our company will be driven by the following success factors:

- ***First and only image-guided, heat-free robotic therapy for BPH that addresses the compromise between safety and efficacy of alternative surgical interventions.*** We have developed the AquaBeam Robotic System, an advanced, image-guided, surgical robotic system for use in minimally invasive BPH surgery. The AquaBeam Robotic System delivers our Aquablation therapy, the first and only image-guided, heat-free robotic therapy for the treatment of BPH. Aquablation therapy combines real-time, multidimensional imaging, personalized treatment planning, automated robotics and heat-free waterjet ablation for targeted and rapid removal of prostate tissue. We believe that alternative surgical interventions for BPH have a number of shortcomings which require patients to compromise between safety and efficacy, either providing significant symptom relief but with a heightened risk of irreversible complications or a lower risk of complications but with significantly less symptom relief. We believe Aquablation therapy represents a paradigm shift in the surgical treatment of BPH by addressing this compromise.

- ***Large, growing and underpenetrated market opportunity.*** BPH is the number one reason men visit a urologist and we estimate that approximately 40 million men in the United States alone are impacted by symptoms of BPH, with aging demographics expected to drive future growth. Of these men, approximately 12 million are being managed by a physician for symptoms related to their disease. While drug therapy is typically a first-line treatment option, limited efficacy and negative side effects, including neurologic, ophthalmic and sexual complications, contribute to low compliance and high failure rates, often as high as 30%. On the other hand, surgical intervention is proven to provide effective and durable symptom relief

compared to drug therapy, but the use of surgery is significantly underpenetrated, largely due to the compromise and limitations associated with alternative surgical interventions. Our total addressable patient population in the United States includes approximately 8.2 million patients, comprised of 6.7 million who are receiving drug therapy, 1.1 million who have tried but failed drug therapy and 400,000 who are undergoing surgical intervention each year. Based on the average selling price of our single-use handpiece, we estimate that our total U.S. addressable market opportunity is in excess of $20 billion. The global incidence of BPH among men over 50 years old is similar to that of the United States, representing a significant incremental market opportunity outside of the United States.

- ***Significant and growing body of clinical evidence and strong support from key opinion leaders, or KOLs, resulting in the inclusion of Aquablation therapy into societal guidelines and rapid expansion of positive reimbursement coverage policies.*** We have developed a significant and growing body of clinical data that demonstrates the efficacy, safety and durability of Aquablation therapy, consistent across all prostate sizes and shapes and independent of surgeon experience. Our robust clinical evidence includes nine clinical studies that we sponsored and enrolled between 2013 and 2018, as well as more than 100 peer-reviewed publications. Our employees participated in protocol design, data management, monitoring, and statistical analysis in all nine clinical studies and results were provided to authors for publication upon request. Our WATER study is the only FDA pivotal study randomized against TURP, which is the historical standard of care for the surgical treatment of BPH. In this study, Aquablation therapy demonstrated superior safety and non-inferior efficacy compared to TURP across prostate sizes between 30 ml and 80 ml, and superior efficacy in a subset of patients with prostates larger than 50 ml. We have established strong relationships with KOLs within the urology community and collaborated with key urological societies in global markets. This support has been instrumental in facilitating broader acceptance and adoption of Aquablation therapy. As a result of our strong KOL network and our compelling clinical evidence, Aquablation therapy has been added to clinical guidelines of various professional associations, including the American Urological Association, European Association of Urology, Canadian Urological Association, and National Institute for Health and Care Excellence; has achieved favorable coverage determinations from MACs; and has been designated by Centers for Medicare and Medicaid Services, or CMS, as demonstrating substantial clinical improvement over alternative surgical interventions and granted transitional pass-through payment status. We believe our compelling clinical evidence, strong KOL relationships and engagement with global urological societies will continue to play an important role in growing awareness and increasing adoption of Aquablation therapy.

- ***Compelling value proposition and benefits to hospitals, surgeons and patients.*** We designed our AquaBeam Robotic System to enable consistent and reproducible BPH surgery outcomes that are independent of surgeon experience and require minimal training. In addition, we believe the differentiated features of Aquablation therapy allow for improved predictability of outcomes and, as such, increase surgeon confidence in recommending surgical intervention to their patients. Given its ability to treat prostate sizes of all shapes and sizes, Aquablation therapy enables hospitals to consolidate the surgical treatment of BPH in a single therapy. We also believe that hospital administrators will be able to leverage the differentiation of Aquablation therapy as a marketing tool to attract skilled surgeons and patients to their hospital system. Furthermore, the AquaBeam Robotic System is highly mobile and compact, requiring no retrofitting of the operating room, and we believe is competitively priced compared to other robotic systems and capital equipment devices, both factors which we believe remove adoption hurdles for hospital customers and allow for a more streamlined hospital sales cycle. For patients, Aquablation therapy offers significant and durable symptom relief with an attractive safety profile. We believe these benefits will continue to support the adoption of Aquablation therapy by hospitals and surgeons.

- ***Recurring revenue model.*** We generate revenue primarily from hospitals making capital purchases of our AquaBeam Robotic System and purchasing our single-use handpieces for individual patient use. We also generate revenue by providing post-warranty service for the AquaBeam Robotic System. We believe our business model of selling capital equipment that generates corresponding disposables utilization and post-warranty service contracts provides a path to predictable, recurring revenue.

- ***Broad research and development capabilities and a robust intellectual property portfolio.*** We have invested in establishing strong research and development capabilities for over a decade, including in surgical robotics and imaging-enabled surgery as well as integrating hardware and software to create an exceptional user and patient experience. We believe our focus on this experience will allow us to continue to bring new upgrades, capabilities and products to market, allowing us to innovate and maintain our competitive positioning. We have a broad patent portfolio, including 96 issued patents and 85 pending patent applications as of June 30, 2021. We believe our intellectual property and know-how present a significant barrier to entry for our competitors.

- ***Proven leadership team and board members with deep industry experience.*** We are led by a highly experienced management team and board with a successful track record of building businesses by identifying and providing solutions for underserved markets in the medical device industry. Our team has successfully led and managed dynamic growth phases in organizations and commercialized products in markets with established incumbents by addressing the unmet needs of the physicians and patients they serve. Our senior management team has an average of over 18 years of experience in the medical device industry across both public and private companies.

Our Growth Strategies

Our mission is to establish Aquablation therapy as the surgical standard of care for BPH. The key elements of our growth strategy are:

- ***Grow our installed base of AquaBeam Robotic Systems by driving adoption of Aquablation therapy among urologists.*** In the United States, we are initially focused on driving adoption of Aquablation therapy among urologists that perform hospital-based resective BPH surgery. We estimate that approximately 290,000 of the 400,000 annual BPH surgeries are resective procedures performed across approximately 2,700 hospitals. We are initially targeting 860 high-volume hospitals that we estimate perform, on average, more than 200 resective procedures annually and account for approximately 70% of all hospital-based resective procedures. To penetrate these hospitals, we will continue to increase our direct team of capital sales representatives, who are focused on driving system placement within hospitals by engaging with key surgeons and decision makers to educate them about the compelling value proposition of Aquablation therapy. We also intend to increase awareness of Aquablation therapy by continuing to publish clinical data in various industry and scientific journals, present our clinical data at various industry conferences and sponsor peer-to-peer education programs and proctorships. Over time, we will gradually expand our focus to also include mid- and low-volume hospitals.

- ***Increase system utilization by establishing Aquablation therapy as the surgical treatment of choice for BPH.*** Once we place a system within a hospital, our objective is to establish Aquablation therapy as the surgical treatment of choice for BPH. Within each hospital, we are initially focused on targeting urologists who perform medium-to-high volumes of resective procedures and converting their resective cases to Aquablation therapy. To accomplish this, we will continue expanding our team of highly trained Aquablation representatives and clinical specialists, who are focused on driving system utilization within the hospital, providing education and training support and ensuring excellent user experiences. As urologists gain experience with Aquablation therapy, we will leverage their experiences to capture more surgical volumes and establish Aquablation therapy as the surgical standard of care. Over time, we intend to leverage our relationships with urologists to drive utilization of Aquablation therapy beyond the current surgical market. We estimate that approximately 50% of BPH patients who are on drug therapy as well as 50% who have failed drug therapy are under the care of a urologist, equating to approximately 3.9 million men. We believe we can reach these patients by continuing to educate our network of urologists of the clinical benefits of Aquablation therapy, provide comprehensive training programs and deepen our relationships with key urologists and various medical societies. Furthermore, we believe that additional coverage by private payors will continue to drive increased utilization.

- ***Continue to broaden private payor coverage.*** Since the addition of Aquablation therapy to AUA clinical guidelines in May 2019, we have significantly grown coverage for Aquablation therapy in the United

States. Effective in 2021, all local MACs, which represent 100% of eligible Medicare patients, issued final positive local coverage determinations to provide Medicare beneficiaries with access to Aquablation therapy in all 50 states. We believe that these favorable coverage decisions have been a catalyst for hospital adoption of our AquaBeam Robotic System. Our strong body of clinical evidence and support from key societies, supplemented by the momentum from Medicare coverage, have led to favorable coverage decisions from several large private payors, including Anthem, BlueCross – Massachusetts, Emblem Health, Health Care Service Corp, and Humana. We plan to leverage these recent successes in our active discussions with private payors to establish additional positive national and regional coverage policies. We believe that additional private payor coverage will contribute to increasing utilization of our system over time. Outside of the United States, we have ongoing efforts in key markets to expand established coverage and further improve patient access to Aquablation therapy.

- ***Build upon our strong base of clinical evidence.*** We are committed to continuing to build upon our foundation of clinical evidence, which we believe will help drive increased awareness and adoption of our products. For example, we are continuing to follow patients in our WATER and WATER II studies to collect five-year clinical outcomes as well as conducting sub-group analyses across our base of clinical data that we believe will further define the role of Aquablation therapy across patient populations. We also plan to further build our base of clinical evidence by supporting new clinical studies intended to support commercial, regulatory and reimbursement efforts. For example, we are supporting an investigator-initiated clinical study, called WATER III, which will be a randomized controlled trial evaluating Aquablation therapy against laser enucleation in treating BPH patients with large prostate sizes.

- ***Invest in research and development to drive continuous improvements and innovation.*** We are currently developing additional and next generation technologies to support and improve Aquablation therapy to further satisfy the evolving needs of surgeons and their patients as well as to further enhance the usability and scalability of the AquaBeam Robotic System. We also plan to leverage our treatment data and software development capabilities to integrate artificial intelligence and machine-learning to enable computer-assisted anatomy recognition and improved treatment planning and personalization. In the future, we may evaluate the application of the AquaBeam Robotic System in new urologic conditions beyond BPH.

- ***Drive increased awareness of Aquablation therapy beyond the urology community.*** As we expand our network of urologists and grow our installed base, we intend to increase awareness and brand recognition of Aquablation therapy beyond urologists, primarily among primary care physicians who manage BPH patients. We estimate that approximately 3.9 million men, including approximately 3.3 million patients who are on drug therapy and 600,000 who have failed drug therapy, are under the care of a primary care physician. To achieve this objective, we will invest in marketing initiatives directed at primary care physicians in order to optimize referral pathways and expand networks for BPH patients to visit a urologist. Once we have established a broader installed base of systems, we may seek to further increase patient awareness through various direct-to-patient marketing initiatives.

- ***Further penetrate and expand into existing and new international markets.*** We plan to establish and strengthen our presence internationally. While the United States remains our primary focus in the near-term, we are growing our existing presence in the large European markets, including Germany, France, Italy, Spain and the United Kingdom, by continuing to promote the clinical benefits of Aquablation therapy, supporting investments in clinical studies to improve coverage and reimbursement and fostering relationships with KOLs. In addition, we intend to expand our reach to selected new markets in the Asia-Pacific region over time. We plan to strategically invest in new markets based on our assessment of market size and opportunity and prospects for compelling reimbursement.

Market Overview

Our Addressable Market Opportunity in BPH

In the United States, BPH is the number one reason men visit a urologist. BPH is estimated to occur in more than 50% of men in their 50s, growing to 70% of men in their 60s, and is the fourth most common diagnosed disease

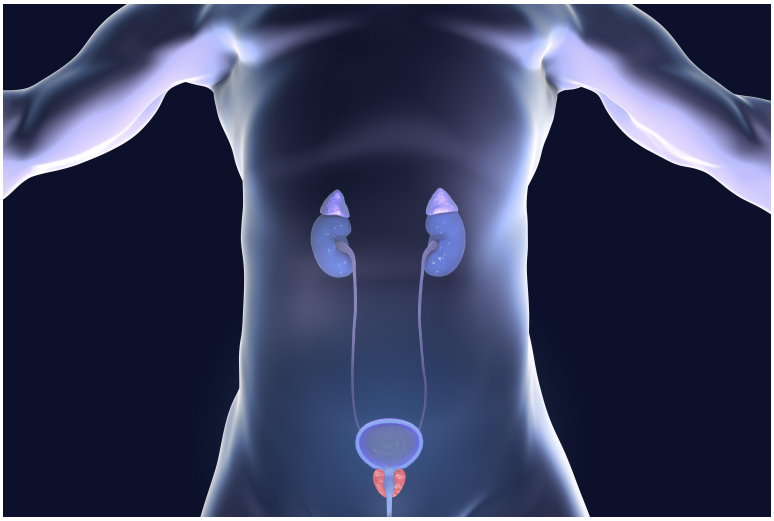
in men above 50 years old, ranking behind coronary artery disease, hypertension and type 2 diabetes. BPH often results in uncomfortable LUTS, which can have a significant impact on quality of life. If left untreated, BPH may eventually lead to more serious complications.

In the United States, we estimate that approximately 40 million men are impacted by symptoms of BPH, with aging demographics expected to drive future growth. Over the next ten years, we expect that the number of men over 65 years old in the United States will double and include a corresponding increase in the number of men with enlarged prostates. Of these men, approximately 12 million are being managed by a physician for symptoms related to their disease. While drug therapy is typically a first line treatment option, limited efficacy and negative side effects contribute to low patient compliance, high failure rates and drop outs. On the other hand, surgical intervention is proven to provide effective and durable symptom relief compared to drug therapy, but the use of surgery is significantly underpenetrated, largely due to the compromise patients must make between (1) the incidence of irreversible side effects associated with current resective surgical interventions, or (2) the lower rates of efficacy and durability associated with non-resective surgical interventions. Our total addressable patient population in the United States includes approximately 8.2 million patients, comprised of 6.7 million receiving drug therapy, 1.1 million who have tried but failed drug therapy and 400,000 undergoing surgical intervention each year. Based on the average selling price of our single-use handpiece, we estimate that our total addressable market opportunity is in excess of $20 billion in the United States. The global incidence of BPH among men over 50 years old is similar to that of the United States, representing a significant incremental market opportunity outside of the United States.

Overview of the Prostate

The prostate is a small gland in the male reproductive system. The main role of the prostate is to produce the fluid that protects and gives nutrients to sperm. The prostate sits underneath the bladder and surrounds the top part of the urethra, which carries urine from the bladder.

Overview of the Prostate and Surrounding Structures

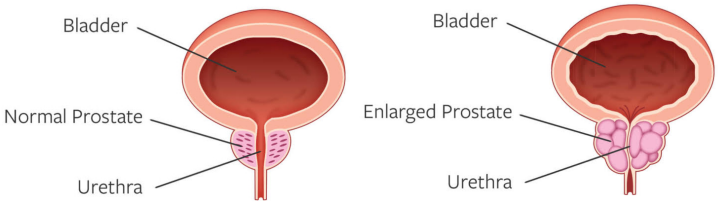


The prostate is approximately the size of a walnut in men younger than 30 years old; as men age, the prostate grows larger. At puberty, testosterone levels in boys start to increase and the prostate grows to about eight times its size. The prostate continues to grow, doubling in size between the ages of 21 and 50 years, and almost doubles again in size between the ages of 50 and 80 years. Prostate size is generally measured in volume using milliliters, or ml.

BPH Disease Overview and Diagnosis

BPH refers to the non-malignant enlargement of the prostate gland. As the prostate enlarges, the gland presses against the urethra, which may obstruct or restrict the flow of urine from the bladder and result in uncomfortable LUTS, such as urgency, frequency, urinary retention, straining to urinate and a weak urinary stream. Without treatment, prolonged obstruction may eventually lead to acute urinary retention, urinary tract infections or renal insufficiency. An enlarged prostate can range between roughly 30 ml to above 300 ml. As prostates increase in size so does the complexity of shape where the obstructive tissue will grow back into the bladder (called an intravesical component).

Normal Prostate versus Enlarged Prostate



While some BPH patients are asymptomatic, most will experience symptoms, which generally become more bothersome with age. According to the AUA guidelines, it is estimated that 90% of men between the ages of 45 and 80 will experience LUTS, and 50% of them will experience moderate-to-severe symptoms by the time they are 85 years old, which we believe are predominantly caused by BPH. Furthermore, 50% of men between the ages of 51-60 have pathological BPH. Symptoms associated with BPH can have a significant impact on a patient's quality of life, including inability to sleep through the night, limiting activities due to proximity to the bathroom, impact on relationships, professional life and social activities, ongoing embarrassment and frustration and impact on sexual function. According to our internal marketing survey, 99% of men diagnosed with BPH say symptoms impact their quality of life.

Clinical diagnosis of BPH typically involves a number of tests that are used to assess the degree of LUTS and determine whether the symptoms are caused by BPH or another condition. A symptom score index utilizes standardized questionnaires to quantify a patient's degree of LUTS. One of the most common scoring systems is the International Prostate Symptom Score, or IPSS. Using this scoring system, LUTS are classified as either mild, moderate or severe. The IPSS questionnaire is a key tool used to evaluate treatment options and assess treatment success. Other commonly used tests include a digital rectal exam, urine sample tests, imaging scans, blood tests and uroflowmetry tests, which measure the strength and amount of urine flow during urination. Patients suffering from symptoms of BPH are typically first seen by a primary care physician, who may diagnose and manage the patient, or refer the patient to a urologist. A urologist is a physician who specializes in diseases of the urinary tract in both males and females as well as the male reproductive system. Urologists are trained to perform surgery for various types of urologic conditions, including BPH.

BPH Treatment Options

The main goal of BPH treatment is to alleviate the symptoms associated with the disease and improve the patient's quality of life. As such, a patient's recommended course of treatment is largely based on the patient's degree of symptoms, typically measured using validated scoring systems such as IPSS. Patients with mild symptoms

who have not developed other complications of BPH may choose watchful waiting, meaning that before proceeding with active treatment, the physician and patient wait to see if symptoms get worse or if new symptoms develop. Patients who choose this approach are generally advised to implement lifestyle changes and return for yearly visits with their physician to determine if symptoms are changing. For most men, the prostate will continue to grow and symptoms will worsen. As symptoms become more bothersome, active treatment may be recommended. The two primary categories of active treatment for BPH are drug therapy and surgical intervention.

Drug Therapy

Drug therapy is often the first step in actively treating mild-to-moderate symptoms of BPH. While there is no pharmacological cure for BPH, drugs may be used to manage symptoms. Available drugs address symptoms by either shrinking (5-alpha reductase inhibitors) the prostate or relaxing (alpha blockers) muscles surrounding the prostate. In some instances, patients may be prescribed a combination of both medications. Most men with BPH who start drug therapy will need to continue it indefinitely in order to relieve symptoms, unless they choose to undergo surgical intervention. While drug therapy can provide relief for some men, two out of three patients are not satisfied with the effectiveness of their medication. In general, drug therapy provides IPSS reduction of approximately five points and flow improvement of up to 2.5 ml per second. Drug therapy is also often associated with negative side effects, including headaches, dizziness, nausea, erectile dysfunction, ejaculatory dysfunction, loss of libido, cardiac failure and dementia. These side effects often contribute to poor treatment compliance, with drug therapy failing in up to 30% of men within two years. Furthermore, drug therapy may be costly, particularly in light of limited symptom relief. For example, a recent study has shown that payor costs for branded combination drug therapy over a two-year period was the least cost-effective of all treatment options included in the study, as drug therapy requires extended use and yields the least symptom relief.

Surgical Intervention

Surgical intervention is recommended for patients who have failed or are unwilling to consider drug therapy, or are suffering from complications due to their BPH. Although more invasive than drug therapy, surgical intervention generally provides more significant, longer-lasting symptom relief. We estimate that approximately 400,000 BPH surgeries were performed in the United States in 2019, growing at a compounded annual growth rate, or CAGR, of 11% since 2016. We believe that growth in the use of surgical intervention over the past several years is due to the introduction of new technologies that better balance the compromise between efficacy and safety as well as growing awareness of surgical intervention as an effective way to manage BPH symptoms compared to drug therapy.

There are two categories of surgical intervention, resective, where obstructive tissue is removed at the time of intervention, and non-resective, where obstructive tissue is not removed, but rather the prostatic urethra is re-shaped.

Resective Procedures. In resective surgery, tissue is removed during the procedure. Resective prostate procedures generally provide more significant and longer-lasting symptom relief than non-resective procedures, but may result in a higher incidence of irreversible complications, including urinary incontinence, erectile dysfunction and ejaculatory dysfunction. Resective procedures generally provide IPSS reduction of approximately 15 points. These procedures are typically performed in the hospital or outpatient surgery center under general or spinal anesthesia. In 2019, approximately 290,000 resective surgeries were performed in the United States, accounting for over 70% of all BPH surgeries.

Resective surgeries may be performed endoscopically, allowing the procedure to be completed through a tubular instrument, or via an open or a laparoscopic procedure, called a simple prostatectomy.

Endoscopic procedures access the prostate through the urethra, so no incisions are made in the patient's abdomen. These procedures typically use heat-based technologies to resect prostate tissue, utilizing a single camera called a cystoscope that provides limited visualization of the anatomy during the procedure. Common alternative endoscopic resective procedures include:

- *Transurethral Resection of the Prostate.* TURP is a resective procedure which uses electrocautery to cut and remove prostate tissue. Despite being used for over a century, this procedure is still the most frequently performed resective surgery and is considered the historical standard of care for the surgical treatment of

BPH for prostates less than 80 ml. In 2019, approximately 135,000 TURP procedures were performed in the United States.

- *Photoselective Vaporization of the Prostate, or PVP.* PVP is a transurethral form of treatment that utilizes a laser fiber to vaporize prostate tissue sequentially outwards until the surgeon creates a sufficient cavity through which the patient may now void. PVP is generally used in patients with small- to average-sized prostates and can be used in patients who are at high risk of bleeding complications. In 2019, approximately 80,000 PVP procedures were performed in the United States.

- *Laser Enucleation of the Prostate.* Laser enucleation utilizes a surgical laser to manually resect prostate tissue through the urethra. This procedure allows the surgeon to follow anatomic planes to separate entire lobes of the prostate. In general, separated prostate lobes are then pushed into the bladder and suctioned out via a special tool. Laser enucleation is prostate size-independent; however, this procedure is more commonly used in larger prostates, and adoption has been limited due to the high degree of skill and experience required. In 2019, approximately 30,000 enucleation procedures were performed in the United States.

A simple prostatectomy is an invasive, open procedure that requires one or more incisions to be made in the patient's abdomen to access and remove part or all of the prostate. This procedure is typically a last resort treatment for BPH in patients with very large prostates or those patients with severe complications due to BPH. This surgery may be done manually, or with the assistance of a robot, but in either case is a procedure that requires a high degree of surgeon skill. In 2019, approximately 25,000 prostatectomy procedures were performed for the treatment of BPH in the United States.

Non-Resective Procedures. In non-resective procedures, prostate tissue is not removed at the time of surgery. By not removing tissue, symptom relief is generally less significant and durable compared to resective procedures. Non-resective procedures generally provide IPSS reduction of approximately ten points. The two most common commercially available non-resective procedures are prostatic urethral lift, or PUL, and water vapor therapy. PUL uses permanent implants of nitinol and stainless steel placed transurethrally to pin back and compress obstructing prostate tissue, thus creating a channel for improved urinary flow. Water vapor therapy utilizes principles of convection by transurethrally delivering water vapor into obstructing prostate tissue, which results in cell death and reduction of prostate volume over a period of three to six months. Non-resective procedures are generally approved for small- to average-sized prostates. In 2019, approximately 105,000 non-resective surgeries were performed in the United States.

Limitations of Alternative Surgical Interventions

Two factors that surgeons and patients commonly consider when evaluating surgical intervention are efficacy and safety. Efficacy is generally measured by symptom relief as well as durability of relief, and safety by the occurrence of irreversible complications such as urinary incontinence, erectile dysfunction and ejaculatory dysfunction. We believe that alternative surgical interventions for BPH require patients to compromise between efficacy and safety. Alternative interventions either provide significant symptom relief with a heightened risk of irreversible complications or a lower risk of complications with significantly less symptom relief. In addition, most alternative surgical interventions are limited by prostate size and shape, with no single procedure capable of effectively addressing the full range of prostate anatomies regardless of surgeon experience level. We believe that the compromise and limitations associated with alternative surgical interventions have contributed to the relatively low penetration rate of surgical intervention.

Limitations of Endoscopic Resective Procedures. While endoscopic resective surgeries such as TURP and laser-based procedures may provide BPH patients with durable symptom relief, these procedures have a number of limitations, including:

- *High rates of irreversible complications.* Irreversible complications are a common side effect of endoscopic resective procedures. Published studies have shown rates of erectile dysfunction as high as 14%, 20% and 8%, ejaculatory dysfunction as high as 89%, 50% and 77%, and incontinence as high as 2%, 2%, and 33% for TURP, PVP and laser enucleation, respectively. We believe the high rates of irreversible complications

are in large part due to these technologies utilizing heat to remove prostate tissue, which may lead to unintended thermal damage to critical parts of the anatomy. Furthermore, minimal intraoperative visualization, which is generally limited to a cystoscope, provides limited visibility of the prostate and makes it difficult for the surgeon to see and preserve critical parts of the prostate during tissue resection. This results in highly variable depth of tissue penetration, damage to tissue which may extend deeper than cavity created, a potential for unintended prostate capsule perforation, potential damage to nerve bundle responsible for erectile function, and delayed healing of prostatic urethra.

- *Prostate size limitations.* While TURP is considered the standard of care for surgical treatment of BPH, it is generally reserved for small- to average-sized prostates below 80 ml given the length and manual nature of the procedure. For laser-based therapies, PVP is also most commonly used for small- to average-sized prostates, while laser enucleation is generally reserved for treating patients with larger prostates.

- *Experience dependent outcomes and long learning curves.* Endoscopic resective procedures rely on manual resection of the prostate, with clinical outcomes often highly dependent on the surgeon's experience level. For example, a study of a large number of patients undergoing TURP found that the rate of reoperation was 1.2-fold higher in men treated by surgeons who had performed 172 or fewer TURP procedures versus surgeons that had performed more than 402 TURP procedures. In addition, a study of 200 procedures by a surgeon performing PVP showed that the surgeon required at least 120 procedures to achieve optimal clinical outcomes. Furthermore, a study of surgeons learning to perform laser enucleation demonstrated that one-third of the surgeons failed to complete the training program.

- *Inconsistent and lengthy resection times.* Endoscopic resective procedures require manual resection of prostate tissue performed under limited visualization. This manual process contributes to highly inconsistent and lengthy resection times that are strongly correlated with prostate size.

Limitations of a Simple Prostatectomy. While a simple prostatectomy typically provides maximum symptom relief by removing part or all of the prostate gland, this procedure is generally considered a treatment of last resort reserved for patients with large prostates. Limitations of a simple prostatectomy include:

- *Surgical safety concerns.* Even when performed robotically, a simple prostatectomy still requires incisions to be made in the patient's abdomen in order to access the prostate gland. Bleeding events are a key risk in these types of procedures, with transfusion rates as high as 25%.

- *High rates of irreversible complications.* Similar to endoscopic resective procedures, open procedures commonly result in high rates of irreversible complications, with studies showing erectile, ejaculatory dysfunction, and incontinence rates as high as 2-3%, 90% and 8%, respectively.

- *Long hospital stay and recovery time.* Given the invasiveness of open procedures, long hospital stays and post-procedure recovery are common. In addition, patients typically stay in the hospital for an average of five days after surgery and have long recovery times.

Limitations of Non-Resective Procedures. While non-resective procedures are associated with favorable safety profiles and limited impact on sexual function, these procedures generally deliver lower and less durable symptom relief than resective procedures. Limitations of non-resective procedures include:

- *Limited symptom relief and durability.* By not removing obstructive prostate tissue, non-resective procedures generally results in less significant and durable symptom relief compared to resective procedures. In addition, since prostate tissue continues to grow over time, durability of symptom relief is typically less favorable in non-resective procedures, with higher rates of patients needing to undergo surgical retreatment or go back on drugs. For example, five-year surgical retreatment rates for PUL and water vapor therapy were 13.6% and 4.4%, respectively. In addition, the rates of PUL and water vapor therapy patients back on drug therapy at five years were 10.7% and 11.1%, respectively. Furthermore, since PUL requires the use of a permanent implant, there is risk of post-operative complications due to the implant which may require implant removal, with a published five-year rate of implant removal of 9.3%.

- *Limited intraoperative visualization.* Similar to endoscopic resective procedures, the surgeon's view of the prostate in endoscopic non-resective procedures is limited to a cystoscope that provides minimal visibility of the prostate.
- *Prostate size and shape limitations.* Both PUL and water vapor therapy are generally used for small- to average-sized prostates. Unlike any of the resective procedures, both of these procedures are specifically limited by the FDA for use in certain prostate sizes. The mean prostate volumes for PUL and water vapor therapy were 45 ml and 46 ml, respectively, in their respective U.S. pivotal, prospective, randomized clinical trials. In addition, the use of these procedures may be limited for certain complex prostate shapes.

Our Solution

We have developed the AquaBeam Robotic System, an advanced, image-guided, surgical robotic system for use in minimally invasive urologic surgery. Our proprietary AquaBeam Robotic System delivers our Aquablation therapy, the first and only image-guided robotic therapy for the treatment of BPH. We market the AquaBeam Robotic System in the United States pursuant to FDA 510(k) clearance that we received in March 2021. The most common side effects observed for Aquablation therapy are mild and transient and may include mild pain or difficulty when urinating, discomfort in the pelvis, blood in the urine, inability to empty the bladder or a frequent or urgent need to urinate, and bladder or urinary tract infection. During our clinical studies, we documented a rate of incontinence between 0%-2%, ejaculatory dysfunction between 6.9%-24.6%, and a peri-operative transfusion rate between 0.9%-5.9%. Since then, a number of publications have reported on transfusion rates. A key study published in April 2021 of 2,089 men undergoing Aquablation therapy with prostates ranging in size from 20 ml to 363 ml observed a transfusion rate of only 0.8%.

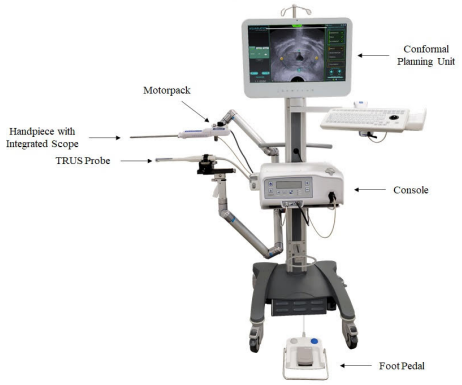
The AquaBeam Robotic System combines the following highly differentiated features that are intended to deliver effective, safe and durable outcomes for males suffering from LUTS due to BPH that are consistent across all prostate sizes and shapes and independent of surgeon experience:

- ***Real-time image guidance.*** Intraoperative ultrasound imaging combined with cystoscopic visualization, using a camera attached to a hollow tube, which provides a multidimensional view of the treatment area, enabling improved decision-making and real-time treatment monitoring.
- ***Personalized treatment planning.*** Using ultrasound imaging integrated with advanced planning software, the surgeon is able to map the treatment contour that precisely targets the resection area, personalizing the optimal tissue removal plan based on each patient's unique anatomy.
- ***Automated robotic execution.*** Once the treatment plan is finalized, the robot automatically executes the plan, guiding the precisely calibrated waterjet with speed and accuracy while the surgeon monitors.
- ***Heat-free waterjet resection.*** Utilizing the unique power of a pulsating waterjet near the speed of sound, Aquablation therapy removes prostatic tissue with a heat-free waterjet, minimizing the risk of complications arising from prolonged thermal injury.

Components of the AquaBeam Robotic System

The AquaBeam Robotic System is highly mobile and compact, requiring no retrofitting of the operating room. The main components of the AquaBeam Robotic System are the conformal planning unit, or CPU, console, motorpack and handpiece with integrated scope.

AquaBeam Robotic System



The CPU serves as the primary user interface of the AquaBeam Robotic System, displaying live transrectal ultrasound, or TRUS, video which allows the surgeon to visualize the prostate and surrounding structures, identify key anatomical markers and personalize the resection based on the patient's unique anatomy. Through an intuitive user interface, the CPU allows the surgeon to map the contour of the prostate and plan the resection pathway by selecting the resection angles, length and depth. The planned parameters of the resection are transferred to the console to initiate Aquablation therapy. During the procedure, the surgeon utilizes the CPU to observe the progress of the resection in real time and has the option to make adjustments to the treatment area as needed. The CPU is equipped with a variety of integrated safety mechanisms that provide the surgeon with advisory notifications during treatment.

The console contains a high-pressure pumping system that is responsible for generating the high-velocity waterjet used in Aquablation therapy. The high-pressure pumping system consists of a control unit and powerboards that drive the positioning and flow rates of the waterjet. In addition, the console utilizes a peristaltic pump that assists in active evacuation of saline and tissue from the bladder and prostatic urethra during the Aquablation therapy to manage fluid levels. The console interfaces with both the CPU and motorpack and handpiece assembly, generating the water flow rates based on instructions received from the CPU. The console is activated by a foot pedal and has a small screen that displays the pump level and procedure mode.

The motorpack is connected to the console with a flexible cable that provides power and control instructions to the motorpack. The motorpack consists of a motor control system that drives the movement and position of the waterjet nozzle in the handpiece and is designed to mechanically dock with the handpiece, completing the waterjet drive mechanism as well as establishing a secure electrical connection. The motorpack has buttons that allow a surgeon to manually increase or decrease the pump power level during resection, if needed.

The handpiece is the sterile, single-use component of the AquaBeam Robotic System that delivers the high-velocity waterjet. The tip of the handpiece is inserted transurethrally into the patient, advanced through the prostatic urethra into the bladder and positioned using both TRUS imaging and cystoscopic guidance from the integrated, reusable scope. The motorpack and handpiece assembly is secured to an articulating arm. The start treatment location, end treatment location, depth and angle of resection are based on the transferred planned contour and profile from the CPU to the console and motorpack.

The AquaBeam Robotic System also includes a customized ultrasound set through which ultrasound images are integrated with our system.

Treatment with Aquablation Therapy

Aquablation therapy is currently performed in the hospital setting in a procedure that typically takes less than one hour. On the day of surgery, the patient is given either general or spinal anesthesia and then prepped and positioned on their back with their knees bent above the hips and legs spread apart using stirrups, similar to other BPH surgical procedures. The procedure begins with the insertion of the TRUS probe, followed by the insertion of the handpiece into the patient's bladder through the urethra under visual guidance from the integrated scope. The surgeon confirms successful positioning of the TRUS probe and handpiece with visual markers on the CPU screen with adjustments made by advancing, retracting and rotating the TRUS probe. Once positioning is confirmed, the TRUS probe and motorpack and handpiece assembly are secured to articulating arms that are mounted to the bed rails to prevent movement during planning and the procedure.

The surgeon begins the planning process via the user interface of the CPU. Using real-time TRUS imaging displayed on the CPU to visualize the anatomy of the prostate, the surgeon plans the treatment area. The surgeon defines the treatment area by adjusting the boundaries of treatment along the length, width and height of the prostate. The boundaries serve as a tissue depth guide to help maintain the resection within the treatment area. If a median lobe is present, the surgeon can visualize and separately plan the resection of the median lobe. Once planning and mapping are complete, the surgeon then begins resection by depressing the foot pedal to initiate the high-velocity

waterjet, with the resection automatically executed based on the defined treatment plan. As the waterjet removes prostate tissue along the planned treatment contour, excess water and ablated tissue are actively suctioned out of the patient. The surgeon monitors the progress of the resection on the CPU and, at any point during the procedure, the surgeon can pause the treatment by releasing the foot pedal. Using buttons on the motorpack, the surgeon can manually decrease the resection depths in real time as the procedure is monitored on both live ultrasound and cystoscopy. Aquablation therapy treatment stops upon reaching the planned treatment endpoint. The surgeon may decide to plan additional resection passes depending on the length or depth of the prostate.

When the procedure is complete, the motorpack and handpiece assembly is undocked from the articulating arm. The surgeon can manually scan the treatment area endoscopically by using the integrated scope of the handpiece. After post-procedural cystoscopy is complete, the handpiece is removed from the urethra. The surgeon may then use a resectoscope to remove ablated tissue to improve visualization and then perform focal, targeted and methodical bladder neck cautery to achieve post-operative hemostasis, or a state where the bleeding has stopped. Following the procedure, the patients are typically monitored in the Post-Anesthesia Care Unit, or PACU, with the majority of patients discharged after one overnight stay, without needing to leave with a catheter.

Key Benefits of Aquablation Therapy

We believe our Aquablation therapy addresses the compromise between safety and efficacy of alternative surgical interventions, providing the following unique benefits:

- ***Significant and durable symptom relief.*** Given obstructive prostate tissue is removed during the procedure, Aquablation therapy has demonstrated significant and long-lasting levels of symptom relief similar to those of alternative resective procedures. The efficacy of Aquablation therapy has been shown in nine clinical studies and over 100 peer reviewed publications. Significant symptom reduction, quality of life and uroflowmetry improvements were observed across the WATER, WATER II and OPEN WATER studies. In the WATER study, Aquablation therapy demonstrated superior safety and non-inferior efficacy compared to TURP, the historical standard of care for the surgical treatment of BPH. Our studies have also demonstrated durable outcomes with low rates of surgical retreatment and few men having to go back on drugs following surgery. In the WATER and WATER II studies, surgical retreatment rates at three years were only 4.3% and 3.0%, respectively. In the OPEN WATER study, there were no surgical retreatments at one year.
- ***Uncompromised safety profile.*** Aquablation therapy has demonstrated low rates of irreversible complications, including urinary incontinence, erectile dysfunction and ejaculatory dysfunction, compared to published rates observed for other resective surgeries. In our WATER study, patients who underwent Aquablation therapy maintained a higher level of sexual function compared to those who underwent TURP. We believe the strong safety profile of Aquablation therapy is a result of the therapy's ability to preserve key anatomical structures and limit prolonged and unintended thermal injury. In addition, no implant remains in the body with Aquablation therapy, minimizing the risk of mid-to-long term post-operative complications resulting from the implant.
- ***Outcomes consistent across all prostate sizes and shapes and independent of surgeon experience.*** We designed Aquablation therapy to deliver outcomes that are effective, safe and durable for males suffering from LUTS due to BPH across all prostate sizes and shapes. Our WATER, WATER II and OPEN WATER studies enrolled men with prostate sizes between 20 ml and 150 ml; however, in the commercial setting, we have successfully treated men with prostate sizes over 300 ml. Additionally, in the WATER and WATER II studies, 50% and 83% of men, respectively, had an obstructive median lobe, and the average prostate size in each study was 54 ml and 107 ml, respectively. Compared to other resective procedures, we believe Aquablation therapy is relatively simple to learn, enabled by the intuitive interface of the CPU and automated robotic resection, and delivers outcomes that are independent of surgeon experience. In the WATER study, 14 of the 17 participating surgeons had no previous experience with Aquablation therapy, and in the WATER II study surgeons had a median previous experience of only 0.5 procedures.

- ***Personalized treatment planning and improved decision-making.*** Aquablation therapy combines cystoscopic visualization, ultrasound imaging and advanced planning software. Together, these technologies provide the surgeon with a multidimensional view of the treatment area and enable personalized treatment planning for the patient's unique anatomy, improved decision-making and real-time monitoring during the procedure.

- ***Targeted and controlled resection with consistent resection times.*** Aquablation therapy utilizes automated robotic resection to remove prostate tissue using a precise, heat-free waterjet. These features enable targeted and controlled tissue removal with rapid resection times that are highly consistent across prostate sizes and shapes and surgeon experience.

Our Clinical Results and Studies

A significant body of clinical evidence supports the efficacy, safety and durability of Aquablation therapy across prostate sizes and shapes as well as surgeon experience. This robust body of evidence includes more than 100 peer-reviewed publications in premier journals, such as the Journal of Urology, European Urology and BJU International, as well as nine clinical studies, including our three core studies: WATER, WATER II and OPEN WATER.

- ***WATER.*** The WATER study was double-blind, randomized, controlled study of Aquablation therapy against TURP in men with prostate sizes between 30 ml and 80 ml. This study is the only FDA pivotal trial for BPH randomized against TURP. The study was designed with 80% power to show superiority in safety and more than 80% power to show non-inferiority in efficacy. The results of our WATER study served as the basis for FDA grant of our De Novo application and were first published in the Journal of Urology in 2018.
- ***WATER II.*** The WATER II study was a prospective, multicenter study of Aquablation therapy in patients with prostate sizes between 80 ml and 150 ml. The study was designed with 80% power for safety and 99% power for efficacy against an objective performance criteria, or OPC, based upon TURP data, even though TURP procedures are typically performed in smaller prostates. The results of the WATER II study served as the basis for increased reimbursement and coverage and were first published in BJU International in 2019.
- ***OPEN WATER.*** The OPEN WATER study was a prospective, multicenter, all-comer study conducted in a commercial setting spanning patients with prostate sizes between 20 ml and 150 ml. Due to the size of this study, it was sufficiently powered to statistical conclusions with the data. There was no OPC established for this study. The results of the OPEN WATER study were first published in Journal of Clinical Medicine in 2020.

The following table highlights key findings from our three core studies.

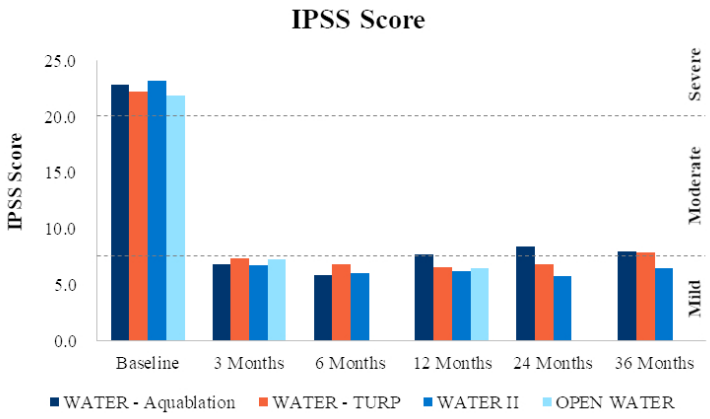
	OPEN WATER	WATER II	WATER (Aquablation arm)	WATER (TURP arm)
Number Treated	178	101	116	65
Demographics (all data reported as mean)				
Age (years)	68	68	66	66
Prostate size	59ml	107ml	54ml	52ml
Obstructive median lobe	59%	83%	50%	52%
Longest Duration of Follow-up	1 year	3 years	3 years	
Efficacy				
IPSS baseline	21.6	23.2	22.9	22.2
IPSS at longest FU	6.4	6.5	8	7.9
IPSS-QoL baseline	4.7	4.6	4.8	4.8
IPSS-QoL at longest FU	1.4	1.1	1.6	1.5
Qmax baseline	9.9 ml/sec	8.7 ml/sec	9.4 ml/sec	9.1 ml/sec
Qmax at longest FU	20.8 ml/sec	18.5 ml/sec	20.6 ml/sec	17.1 ml/sec
Safety (irreversible complications assessed by protocol definitions)				
Incontinence	0.0%	2.0%	0.0%	0.0%
Erectile dysfunction	0.0%	0.0%	0.0%	0.0%
Ejaculatory dysfunction (% in sexually active)	8.4% (11.9%)	14.9% (19.5%)	6.9% (10.3%)	24.6% (35.6%)
Durability				
Surgical retreatment for BPH at longest FU	0.0%	3.0%	4.3%	1.5%
Surgical retreatment annualized	0.0%	1.0%	1.4%	0.5%
Back on BPH medication at longest FU	3.4%	5.9%	1.7%	7.7%
Back on BPH medication annualized	3.4%	2.0%	0.6%	2.6%

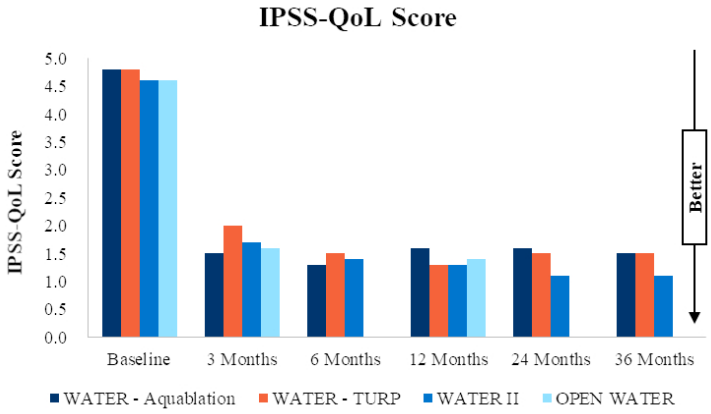
Efficacy and Durability

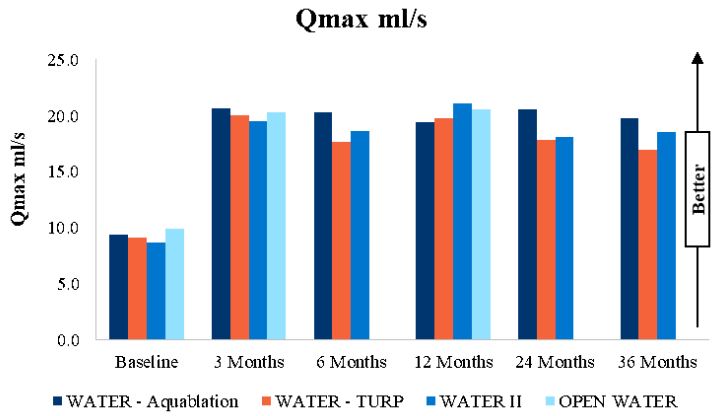
The most common measure of efficacy in BPH clinical research is symptom relief measured by improvement in IPSS. IPSS is a validated, standardized questionnaire used to quantify a patient's degree of LUTS. The questionnaire is comprised of seven questions that characterize urinary dysfunction. Scores range from 0 to 35, with a higher score indicating more severe symptoms. A total score of 7 or less indicates mild symptoms, 8 to 19 indicates moderate symptoms and 20 to 30 indicates severe symptoms. The IPSS-Quality of Life, or IPSS-QoL, is a single question with a score of 0 to 6 that asks the patient how he would feel if he had to spend the rest of his life with his current urinary symptoms. A higher score indicates a higher level of dissatisfaction. Uroflowmetry tests, which measure the strength and amount of urine flow during urination, are also used to measure efficacy, with Qmax being the primary measurement. Qmax is a measure of the max urinary flow rate. A study of 348 18-year-old males showed the majority of men had a Qmax of 20 ml/s or higher.

Our core clinical studies have demonstrated the strong efficacy of Aquablation therapy across prostate sizes and shapes. The following figures highlight efficacy results for IPSS scores, IPSS-QoL scores and Qmax at various

points in time across these studies. All changes for IPSS, IPPS-QoL, and Qmax had a statistically significant change from baseline (p <0.0001).







An important factor related to efficacy is durability, which is commonly measured by freedom from surgical retreatment due to recurrent LUTS associated with BPH. In addition, since one of the key goals of surgical intervention is to reduce or eliminate the need for drugs, the rate of patients back on drug therapy due to recurrent LUTS associated with BPH is also an important measure of durability. Lower rates of surgical retreatment and being back on drug therapy are more favorable. The table below highlights the strong durability observed across our core clinical studies.

	OPEN WATER	WATER II	WATER (Aquablation arm)	WATER (TURP arm)
Longest Duration of Follow-up	1 year	3 years	3 years	
Surgical retreatment for BPH at longest FU	0.0 %	3.0 %	4.3 %	1.5 %
Surgical retreatment annualized	0.0 %	1.0 %	1.4 %	0.5 %
Back on BPH medication at longest FU	3.4 %	5.9 %	1.7 %	7.7 %
Back on BPH medication annualized	3.4 %	2.0 %	0.6 %	2.6 %

Safety

A key measure of safety used in BPH clinical research is the rate of irreversible complications, which includes urinary incontinence, erectile dysfunction and ejaculatory dysfunction. Urinary incontinence refers to the loss of bladder control, resulting in the occasional leak of urine. Erectile dysfunction refers to the inability to get or maintain an erection firm enough for sexual intercourse. Ejaculatory dysfunction refers to the inability of a man to efficiently ejaculate semen from the penis at the moment of sexual climax.

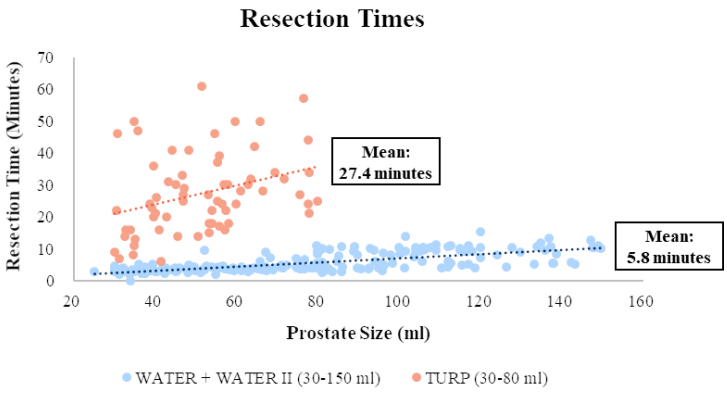
Aquablation therapy has demonstrated low rates of irreversible complications across our core studies, with consistently low rates of urinary incontinence and erectile dysfunction and ejaculatory dysfunction risk as low 10% in sexually active men. The table below highlights the strong safety profile observed across our core clinical studies.

	OPEN WATER	WATER II	WATER (Aquablation arm)	WATER (TURP arm)
Incontinence	0.0%	2.0%	0.0%	0.0%
Erectile dysfunction	0.0%	0.0%	0.0%	0.0%
Ejaculatory dysfunction (% in sexually active)	8.4% (11.9%)	14.9% (19.5%)	6.9% (10.3%)	24.6% (35.6%)

Surgical Standardization

The efficacy, safety and durability of Aquablation therapy across prostate sizes and shapes have been demonstrated across our three core studies. These studies have also demonstrated that outcomes are independent of surgeon experience. For example, in the WATER study, 14 of the 17 participating surgeons had no previous experience with Aquablation therapy and, in the WATER II study, participating surgeons had a median previous experience with Aquablation therapy of only 0.5 procedures. We believe the short learning curve associated with Aquablation therapy is in large part due to pre-operative planning capabilities and automated robotic execution.

Another key outcome observed across our core studies was consistency of operative and resection times. Regardless of prostate size or shape, the procedure setup and planning processes are the same. Once the surgeon has established the treatment area, the tissue resection is robotically executed, resulting in efficient resection times that are consistent across prostate sizes. The chart below demonstrates consistent resection times observed across our WATER and WATER II studies in prostate sizes between 30 ml and 150 ml. These resection times are in contrast to the highly variable data observed in the TURP arm of the WATER study, which is a key reason why TURP is generally limited to prostate sizes below 80 ml.



WATER

The WATER study was a prospective, multicenter, double-blind, randomized, controlled study of Aquablation therapy against TURP for the treatment of LUTS associated with BPH in men with prostate sizes between 30 ml and

80 ml. One hundred eighty-one patients were enrolled and treated in the study, with 116 undergoing Aquablation therapy and 65 undergoing TURP, across 17 investigational sites. The study commenced in October 2015, and the results were first published in May 2018 in the Journal of Urology.

At baseline for patients undergoing Aquablation therapy, the mean age was 66.0 years, the mean prostate size was 54.1 ml, with 54.1% of patients presenting with an obstructive median lobe, the mean IPSS score was 22.9, the mean IPSS-QoL score was 4.8 and the mean Qmax was 9.4 ml/s. At baseline for patients undergoing TURP, the mean age was 65.8 years, the mean prostate size was 51.8 ml, with 52.0% of patients presenting with an obstructive median lobe, the mean IPSS score was 22.2, the mean IPSS-QoL score was 4.8 and the mean Qmax was 9.1 ml/s.

The primary efficacy endpoint was the change in IPSS at six months compared to baseline for the Aquablation therapy treatment arm randomized against the TURP arm. The primary safety endpoint was the occurrence of Clavien-Dindo persistent grade 1 or grade 2 or higher perioperative complications at three months. The study is planned to follow patients for five years, with three-year data currently published.

Mean total operative time was similar for the Aquablation therapy and TURP treatment arms (33 vs 36 minutes, p = 0.2752), but resection time was lower for Aquablation therapy (4 vs 27 minutes, p <0.0001). Fourteen of the 17 participating surgeons had no previous experience with Aquablation therapy.

Efficacy and Durability

The study successfully achieved its primary efficacy endpoint, with Aquablation therapy showing non-inferior symptom relief compared to TURP. Analysis of a patient subgroup with prostates above 50 ml demonstrated that Aquablation therapy was superior to TURP in symptom reduction.

At six months, mean IPSS scores decreased from 22.9 at baseline to 5.9 in the Aquablation therapy treatment arm and from 22.2 at baseline to 6.8 in the TURP group. The IPSS change score at month six was 1.8 points larger for the Aquablation therapy treatment arm (95% CI -0.4 to 4.0). The lower confidence limit of the difference was above the pre-specified non-inferiority margin of 4.7, substantiating statistical and clinical non-inferiority of efficacy.

Improvements in IPSS scores were statistically similar across the two groups at three-year follow up. Mean improvements in IPSS scores at three years were 14.4 and 13.9 in the Aquablation therapy and TURP treatment arms, respectively (difference of 0.6 points, p=0.6848). Similarly, for Aquablation therapy and TURP, three-year mean improvements in IPSS-QoL were 3.2 and 3.2 (difference of 0 points, p=0.7845), respectively, and Qmax were 11.6 ml/s and 8.2 ml/s (difference of 3.3 ml/sec, p=0.0848), respectively.

Three-year surgical retreatment rates in the Aquablation therapy and TURP treatment arms were 4.3% and 1.5%, respectively, and not statistically different. There were no surgical retreatments for BPH beyond 20 months for either Aquablation therapy or TURP. At three years, the rate of patients in the Aquablation therapy and TURP treatment arms that were back on drug therapy were 1.7% and 7.7%, respectively.

Safety

The primary safety endpoint occurred in 29 Aquablation therapy subjects, or 25.0%, and 26 TURP subjects, or 40.0%, which met the study primary non-inferiority safety hypothesis and subsequently demonstrated superiority (p = 0.0149). Among sexually active men, the rate of persistent retrograde ejaculation was lower in those treated with Aquablation therapy compared to TURP (10% vs 36%, p = 0.0003). There were no cases of urinary incontinence or erectile dysfunction among sexually active men. The transfusion rates in the Aquablation therapy and TURP treatment arms were 0.9% and 0.0%, respectively, and not statistically different. Published transfusion rates of TURP, typically performed in prostates sizes of less than 80 ml, are in the range of 1.8% - 2.8%.

WATER II

The WATER II study was a prospective, multicenter single-arm study for the treatment of LUTS associated with BPH in men with prostate sizes between 80 ml and 150 ml. One hundred and one patients were enrolled and

treated in the study across 16 investigational sites. The study commenced in 2017, and the results were first published BJU International in March 2019.

At baseline for patients in the study, the mean age was 67.5 years, the mean prostate size was 107.4 ml, with 83.2% of patients presenting with an obstructive median lobe, the mean IPSS score was 23.2, the mean IPSS-QoL score was 4.6 and the mean Qmax was 8.7 ml/s. TURP transfusion rates are not provided for comparison because TURP is routinely done in prostates less than 80ml.

The primary efficacy endpoint was IPSS reduction. Secondary efficacy endpoints include IPSS-QoL score, maximum urinary flow rate, post-void residual urine volume and prostate-specific antigen concentration. The primary safety endpoint was the percentage of Clavien–Dindo grade 2 or higher or any grade 1 event resulting in persistent disability. The study is planned to follow patients for five years, with three-year data having already been collected and analyzed.

Mean total operative and resection time was 55 minutes and eight minutes, respectively. Participating surgeons had a median previous experience with Aquablation therapy of only 0.5 procedures.

Efficacy and Durability

The study met its primary and secondary efficacy endpoints showing the Aquablation procedure's ability to provide significant symptom relief in large prostates and is a size independent procedure. The mean IPSS improved from 23.2 at baseline to 6.7 at three months ($p < 0.001$), which is a 17.4-point improvement and meeting the study's primary efficacy endpoint goal. At three years, mean IPSS decreased from 23.2 at baseline to 6.5, mean IPSS-QoL decreased from 4.6 to 1.1 and mean Qmax increased from 8.7 ml/s to 18.5 ml/s.

Three-year surgical retreatment rate was 3.0%. At three years, the rate of patients that were back on drug therapy was 6.0%.

Safety

The study met its primary safety endpoint of Clavien–Dindo grade 2 or higher or any grade 1 event resulting in persistent disability. At three months, this occurred in 45.5% of men, which met the study design goal of less than 65%. Consistent with the results of the WATER study, WATER II observed low rates of irreversible complications: 2% new onset urinary incontinence and, among sexually active men, 0% erectile dysfunction and 19% ejaculatory dysfunction.

While the primary safety endpoint was achieved, the procedure was done without any cauterization to achieve hemostasis, or a state where the bleeding has stopped. As a result, we experienced peri-operative transfusions, or transfusions that occur prior to a patient being discharged from the hospital, at a rate of 5.9%. We worked with numerous surgeons to identify the optimal hemostasis method that would work across all prostate sizes. That method, focal bladder neck cautery, was formally included as part of the Aquablation therapy training program beginning in January 2020. Since then, a number of publications have reported on transfusion rates. A key study published in April 2021 of 2,089 men undergoing Aquablation therapy with prostates ranging in size from 20 ml to 363 ml observed a transfusion rate of only 0.8%. Published transfusion rates of enucleation and simple prostatectomy, typically performed in prostates with sizes of greater than 80 ml, are in the range of 0.8% to 3.4% and 16% to 25%, respectively. The prostate volumes included in the study spanned both WATER and WATER II, which were a broader range than routinely treated by TURP. The OPEN WATER trial demonstrated a similar transfusion rate of published TURP results (1.8% - 2.8%) where typically used in smaller prostates less than 80 ml.

OPEN WATER

The OPEN WATER study was a prospective, multicenter, all-comer study conducted in a commercial setting spanning patients with prostate sizes between 20 ml and 150 ml. One hundred and seventy-eight patients were enrolled and treated in the study across five investigational sites. The study commenced in September 2017, and the results were first published in Journal of Clinical Medicine in February 2020.

At baseline for patients in the study, the mean age was 66.0 years, the mean prostate size was 59.3 ml, with 59.6% of patients presenting with an obstructive median lobe, the mean IPSS score was 21.6, the mean IPSS-QoL score was 4.6 and the mean Qmax was 9.9 ml/s.

The study's primary endpoint was the change in total IPSS score from baseline to three months.

Efficacy and Durability

The primary efficacy endpoint of IPSS reduction was met with mean IPSS scores decreasing from 21.6 at baseline to 7.1 and 6.4 at the three- and 12-month follow-up, respectively.

The secondary endpoint of IPSS-QoL reduction was also met with mean IPSS-QoL scores decreasing from 4.6 at baseline to 1.5 and 1.4 at 3- and 12-month follow-up, respectively. The maximum urinary flow rate (Qmax) increased from 9.9 to 20.3 and 20.8 cc/sec at 3- and 12-month follow-up, respectively and post-void residual urinary volume decreased from 108cc at baseline to 47cc and 61cc at 3- and 12-month follow-up, respectively. All changes for IPSS, IPPS-QoL, and Qmax had a statistically significant change from baseline ($p < 0.0001$). We do not have any plans for additional follow-up with patients in the OPEN WATER study.

There were no cases of surgical retreatment because of recurrent LUTS due to BPH at 12-months, with 3.4% back on drug therapy.

Safety

In terms of safety, irreversible complications were similar to WATER and WATER II; 0% incontinence and among sexually active men 0% erectile dysfunction and 12% ejaculatory dysfunction.

Following Aquablation therapy, 2.7% of patients underwent a transfusion and 7.9% of patients were taken back to the OR for postoperative hemostasis management.

Selected Competitor Data

Prostatic Urethral Lift

The UroLift Prostate Implant, or UroLift, is a PUL system for the treatment of BPH. UroLift was cleared by the U.S. FDA in 2013, following successful completion of the Luminal Improvement Following Prostatic Tissue Approximation for the Treatment of Lower Urinary Tract Symptoms, or L.I.F.T., pivotal study. UroLift is indicated for patients with moderate-to-severe LUTS due to BPH with prostate sizes below 100 ml. Five-year data from this study has been published in June 2017 in the Canadian Journal of Urology.

The L.I.F.T. study was designed as a prospective, multicenter, randomized, single-blinded controlled clinical trial. The study enrolled a total of 206 men randomized (140 UroLift vs 66 sham) across 19 investigational sites. At baseline for patients undergoing UroLift, the mean age was 67 years, the mean prostate size was 44.5 ml, the mean IPSS score was 22.2, the mean IPSS-QoL score was 4.6 and the mean Qmax was 7.9 ml/s. The study excluded prostates with an obstructive median lobe.

At three years, patients undergoing UroLift had a mean IPSS score of 12.7, mean IPSS-QoL score of 2.2 and mean Qmax of 11.8 ml/s. Patients undergoing UroLift experienced the following at three years: 10.7% surgical retreatment and 9.3% back on drug therapy due to recurrent LUTS due to BPH, and 7.1% having one or more implants removed.

At five years, patients undergoing UroLift had a mean IPSS score of 13.9, mean IPSS-QoL score of 2.2 and mean Qmax of 12.0 ml/s. Patients undergoing UroLift experienced the following at five years: 13.6% surgical retreatment and 10.7% back on drug therapy due to recurrent LUTS due to BPH, and 9.3% having one or more implants removed.

Water Vapor Therapy

The Rezūm System, or Rezūm, is a water vapor therapy for the treatment of BPH. Rezūm was granted 510(k) clearance by the U.S. FDA in 2015, following successful completion of the Rezūm II Study. Rezūm is indicated for patients with moderate-to-severe LUTS due to BPH with prostate sizes below 80 ml. Five-year data from this study has been published in April 2021 in the Journal of Urology.

The Rezūm II Study was designed as a prospective, multicenter, randomized, double-blinded controlled clinical trial. The study enrolled a total of 197 men randomized (136 water vapor therapy vs 61 sham) across 15 investigational sites. At baseline for patients undergoing water vapor therapy, the mean age was 63 years, the mean prostate size was 45.8 ml, the mean IPSS score was 22.0, the mean IPSS-QoL score was 4.4 and the mean Qmax was 9.9 ml/s.

At three years, patients undergoing water vapor therapy had a mean IPSS score of 10.5, mean IPSS-QoL score of 2.1 and mean Qmax of 13.2 ml/s. Patients undergoing water vapor therapy experienced the following at three years: 4.4% surgical retreatment and 3.7% back on drug therapy due to recurrent LUTS due to BPH.

At five years, patients undergoing water vapor therapy had a mean IPSS score of 11.1, mean IPSS-QoL score of 2.2 and mean Qmax of 14.0 ml/s. Patients undergoing water vapor therapy experienced the following at four years: 4.4% surgical retreatment and 11.1% back on drug therapy due to recurrent LUTS due to BPH.

Sales and Marketing

Commercial Activities in the United States

We designed our commercial strategy and built our direct sales team to target primarily urologists across the United States, who we believe represent the primary physician specialty managing the care of and receiving referrals for patients with BPH. We estimate that there are approximately 12,000 urologists who manage approximately 4.3 million BPH patients, comprised of 400,000 undergoing BPH surgery annually, 3.3 million who are on drug therapy and 600,000 who have tried but failed drug therapy. We are first focused on driving adoption of Aquablation therapy among urologists who perform hospital-based BPH resective surgery. We estimate that approximately 290,000 of the 400,000 annual BPH surgeries are resective procedures performed across approximately 2,700 hospitals. We are initially targeting 860 high-volume hospitals that perform, on average, more than 200 resective procedures annually and account for approximately 70% of all hospital-based resective procedures. Within each high-volume hospital, we are focused on targeting urologists who perform medium-to-high volumes of resective procedures and converting their resective cases to Aquablation therapy. As urologists gain experience with Aquablation therapy, we will leverage their experiences to capture more surgical volumes and establish Aquablation therapy as the surgical standard of care. We also intend to leverage our relationships with urologists to drive utilization of Aquablation therapy beyond the current surgical market. Over time, we will gradually expand our focus to also include mid- and low-volume hospitals.

We primarily sell our products through our direct sales organization in the United States. As of June 30, 2021, we employed a Vice President of U.S. sales, a sales director and 24 sales professionals, including four sales managers, 10 robotic sales representatives and 10 Aquablation sales representatives, who focus on driving utilization. This team actively engages with providers to drive awareness, adoption and utilization of our Aquablation therapy. Our direct sales organization is supported by ten clinical specialists and professional education employees, who are responsible for training and supporting surgeons, two reimbursement specialists, who are responsible for customer and physician education on coding, coverage and payment, and two field service employees, who provide preventative maintenance and support for our customers. We intend to expand the size of our direct sales organization to support our efforts for adoption and utilization of Aquablation therapy.

In addition to our direct sales efforts, we support our sales organization with marketing and market development initiatives. We plan to continue to expand and enhance our marketing capabilities to support our growing commercial organization and customer base. Our near-term marketing efforts center principally on increasing awareness and driving adoption of Aquablation therapy among urologists by continuing to publish clinical data in various industry and scientific journals, present our clinical data at various industry conferences, expand our

network of KOLs and sponsor peer-to-peer education programs and proctorships. We believe these initiatives will further deepen our relationships with urologists and key medical societies, contributing to our goal of Aquablation therapy becoming the surgical standard of care for BPH surgery. Longer-term, as we expand our network of urologists and grow our installed base, we intend to increase awareness and brand recognition of Aquablation therapy beyond urologists, primarily among primary care physicians who manage BPH patients. To achieve this objective, we will invest in marketing initiatives directed at primary care physicians in order to optimize referral pathways and expand networks for BPH patients to visit a urologist. Once we have established a broader installed base of systems, we may seek to further increase patient awareness through various direct-to-patient marketing initiatives.

Commercial Activities Outside of the United States

Our commercialization strategy outside the United States is focused on large addressable markets through a broad range of market development activities, including increasing awareness, obtaining regulatory approvals and establishing reimbursement. We sell our products using both our direct sales organization and, in certain regions, our network of distribution partners.

In EMEA, our direct sales organization is currently primarily focused on Germany, France, the United Kingdom, Switzerland and Austria. In other countries, such as Italy and Spain, we engage distribution partners to assist us with market development and sales activities. As of June 30, 2021, we employed 9 personnel to support sales and marketing activities in EMEA. We will opportunistically choose distribution partners with clinical and marketing expertise to enter new markets. We are focused on distribution partners that have the capability to assist with surgeon training and, when required, obtaining regulatory approvals. In the Asia-Pacific region, we are focused on obtaining local regulatory clearances with the assistance of our distribution partners in this region. We have regulatory approval in Hong Kong, where we are engaged with a distribution partner for market development activities.

Third-Party Reimbursement

In the United States, we sell our products to hospitals. These customers in turn bill various third-party payors, such as commercial payors and government agencies, for treatment payment of each patient. Our market access team includes four professionals who are focused on all key aspects of reimbursement, which include securing appropriate coding, payment and coverage policies for our products. This team focuses both on payer engagement as well as providing support to the providers.

Coverage and reimbursement by governmental and third-party payors may depend upon a number of factors, including the determination that the product or service and its use or administration for a particular patient is:

- a covered benefit;
- safe, effective and medically necessary;
- appropriate for the specific patient;
- supported by guidelines established by the relevant professional societies;
- cost-effective; and
- neither experimental nor investigational.

Third-party payors, whether foreign or domestic, or governmental or commercial, are developing increasingly sophisticated methods of controlling healthcare costs by limiting coverage and the amount of reimbursement for particular products. In addition, no uniform policy of coverage and reimbursement for procedures exists among third-party payors. Therefore, coverage and reimbursement for procedures can differ significantly from payor to payor. Obtaining coverage and reimbursement can be a time-consuming process that could require supporting scientific, clinical and cost-effectiveness data.

Payors continually review new and existing technologies for possible coverage and can, without notice, deny or reverse coverage for new or existing products and procedures. Further, future coverage and reimbursement may be subject to increased restrictions, such as additional prior authorization requirements, both in the United States and in international markets. In addition, Medicare Administrative Contractors could issue a local coverage determination decision that could restrict the patients eligible for a treatment with our products. Third-party coverage and reimbursement may not be available or adequate in either the United States or international markets. Further, other BPH treatments may be more widely covered or subject to different co-pay policies and requirements, which could impact demand for our products.

Coding and Payment

Third-party payors require physicians and hospitals to identify the service for which they are seeking reimbursement by using Current Procedural Terminology, or CPT, codes, which are created and maintained by the American Medical Association, or AMA. The surgical treatment of BPH using Aquablation therapy is described by CPT code 0421T, which is the code describing transurethral waterjet ablation of the prostate, a Category III code published by the AMA in January 2017. In February 2021, the AMA approved an extension for CPT code 0421T through December 31, 2026.

Physician reimbursement under Medicare generally is based on a defined fee schedule, the Physician Fee Schedule, through which payment amounts are determined by the relative values of the professional service rendered. Physician payment rates for Category III codes are determined by the MACs and vary from jurisdiction to jurisdiction. The payment to the surgeon using CPT code 0421T is similar to that for a TURP procedure.

In addition to payment to the surgeon for professional services, Medicare provides reimbursement to our hospital customers for procedures under the hospital outpatient prospective payment system, or HOPPS, and inpatient prospective payment system, or IPPS. The HOPPS and IPPS provide bundled amounts generally intended to reimburse the hospital for all facility costs related to procedures performed in the hospital outpatient setting and inpatient setting, respectively. Under the HOPPS and IPPS, the national average Medicare payment to the hospital for this procedure is slightly more than $8,200 and $5,600, respectively, which includes payment for the hospitals' costs for the device and procedure. Medicare also provides reimbursement for procedures performed in ASCs. The national average Medicare payment to an ASC for 0421T is approximately $4,000. Reimbursement rates from commercial payors vary depending on the commercial payor, contract terms, and other factors.

As part of the 2020 Outpatient Prospective Payment System ruling, the CMS granted approval for a transitional pass-through, or TPT, payment for Aquablation therapy. TPT status is intended to encourage the use of newly FDA-approved medical devices, drugs, and biologics across all fields of medicine and to boost Medicare patients' access to these innovative therapies by temporarily paying more than established facility fees. The TPT payment for Aquablation therapy is effective through December 31, 2022.

Commercial Payor and Government Program Coverage

A core pillar of our reimbursement strategy involves broadening our third-party payor coverage. We continue to have active discussions with commercial payors to establish positive national coverage policies by highlighting our compelling and robust clinical data, increased patient demand and support from leading medical societies and key opinion leaders. Approximately 32 commercial payors have reimbursed hospitals for the Aquablation procedure, although a number of commercial payors have adopted noncoverage policies for Aquablation therapy. We have secured positive coverage policies from two U.S. commercial payors at the national level; Anthem Blue Cross Blue Shield and Humana. We have secured positive coverage policies from two commercial payors at the local and regional level, namely Blue Cross Blue Shield Massachusetts and EmblemHealth.

As of December 27, 2020, all MACs cover procedures involving Aquablation therapy are covered for Medicare patients. We believe Medicare accounts for approximately 50% of all hospital-based resective BPH procedures performed in the United States.

Prior Authorization Approval Process

Our reimbursement strategy includes leveraging our market access team as advisors when needed to support in obtaining appropriate prior authorization approvals in advance of treatment. We believe we are highly effective in providing guidance to obtain prior authorizations when needed.

Reimbursement Outside of the United States

Outside of the United States, reimbursement levels vary significantly by country, and within some countries by region, as well as by payor type. Reimbursement is obtained from a variety of sources, including government sponsors, hospital budgets or private health insurance plans, or combinations thereof. Obtaining reimbursement is a key part of our market development strategy outside of the United States. We currently have established reimbursement in Germany, the United Kingdom, Spain and Italy are continuing to establish new, as well as more favorable, reimbursement.

Research and Development

We have established a dedicated research and development team, including 29 engineers as of June 30, 2021, with strong research and development capabilities in surgical robotics and imaging-enabled surgery as well as integrating hardware and software to create an exceptional user and patient experience. We believe our focus on this experience will allow us to continue to bring new upgrades, capabilities and products to market, allowing us to innovate and maintain our competitive positioning.

To improve customer experience, we are continually innovating our technologies to support and improve Aquablation therapy to further satisfy the evolving needs of surgeons and their patients as well as to further enhance the usability and scalability of the AquaBeam Robotic System. We also plan to leverage our treatment data and software development capabilities to integrate artificial intelligence and machine-learning to enable computer-assisted anatomy recognition and improved treatment planning and personalization. In the future, we may evaluate the application of the AquaBeam Robotic System in new urologic conditions beyond BPH.

For the years ended December 31, 2019 and 2020, and the six months ended June 30, 2020 and 2021, our research, development and clinical expenses were $13.1 million, $16.3 million, $7.8 million and $9.0 million, respectively.

Manufacturing and Supply

We directly manufacture the AquaBeam Robotic System, the handpiece, integrated scope and other accessories at our facility in Redwood City, California. This includes supporting the supply chain distribution and logistics of the various components. Components, sub-assemblies and services required to manufacture our products are purchased from numerous global suppliers. Each AquaBeam Robotic System is shipped to our customers with a third-party manufactured ultrasound system and probe. We utilize a well-known third-party logistics provider located in United States and the Netherlands to ship our products to our customers globally. While we do not believe we are substantially dependent on any suppliers, currently our principal suppliers include Shantou Institute of Ultrasonic Instruments Co. Ltd. (which manufactures our transrectal ultrasound set), Myriad Fiber Imaging Tech., Inc. (which manufactures our articulating arms), HydroCision, Inc. (which manufactures our pump cartridge contract), and Medical Targeting Technologies GmbH (which manufactures our integrated scope).

Competition

The industry in which we operate is subject to rapid change from the introduction of new products and technologies and other activities of industry participants. While we believe Aquablation therapy and the AquaBeam Robotic System provide us with a competitive advantage against other competing BPH treatment modalities, our currently marketed products are, and any future products we commercialize will be, subject to intense competition.

Certain of our current and potential competitors may have significantly greater financial, technical, marketing and other resources than we do and may be able to devote greater resources to the development, regulatory approval, promotion, sale and support of their products. Our competitors may also have more extensive customer bases and

broader customer relationships than we do, including relationships with our potential customers. In addition, many of these companies have longer operating histories and greater brand recognition than we do. Because of the size of the BPH market, we anticipate that companies will dedicate significant resources to developing competing products.

We consider our primary competition to be resective surgical treatments. These include among others, those manufacturers producing devices for the TURP procedure and laser-based therapies marketed by Boston Scientific Corporation. We also believe we will eventually compete with non-resective and non-surgical treatments. The non-resective treatments include, among others, UroLift marketed by Teleflex Incorporated and Rezum marketed by Boston Scientific Corporation. Non-surgical treatments for BPH are primarily pharmaceuticals. The primary pharmaceutical products marketed to treat BPH include Flomax marketed by Boehringer Ingelheim, Rapaflow marketed by Allergan plc, Avodart marketed by GlaxoSmithKline plc, and Proscar marketed by Merck & Co., Inc.

We believe that the primary bases on which we compete include:

- improved outcomes for patients;
- product safety, efficacy, reliability and durability;
- quality and volume of clinical data;
- effective marketing to and education of patients, physicians and hospitals;
- company, product and brand recognition;
- sales force experience and access;
- product support and service;
- technological innovation, product enhancements and speed of innovation;
- pricing and revenue strategies;
- effectiveness of reimbursement teams and strategies
- regulatory status and speed to market; and
- dedicated clinical representatives.

We cannot assure you that we will be able to compete effectively against our competitors in regard to any one or all of these factors.

Intellectual Property

We rely on a combination of patent, copyright, trademark and trade secret laws and confidentiality and invention assignment agreements to protect our intellectual property rights.

As of June 30, 2021, we had rights to 26 issued U.S. patents, expiring between 2028 and 2037, 70 issued or granted foreign patents, expiring between 2028 and 2035, 36 pending U.S. patent applications, eight pending PCT applications, and 41 foreign patent applications.

As of June 30, 2021, our rights to foreign issued or granted patent rights include 10 granted Chinese patents, 18 granted Japanese patents and eight granted European patents, of which eight have been validated in Germany, seven in Spain, eight in France, eight in the United Kingdom, four in Ireland, and seven in Italy. As of June 30, 2021, our rights to foreign patent applications include 11 pending European applications, seven pending Chinese applications, six pending Japanese applications, nine pending Brazilian applications, and eight pending Indian applications.

As of June 30, 2021, we have the rights to issued or granted patents and pending patent applications that cover aspects of our current AquaBeam Robotic System and our current and future product concepts, including nine issued U.S. patents and 31 foreign issued or granted patents. The nine issued U.S. patents, expiring between 2028 and

2034, include machine and process claims, with six issued patents directed to the hand-piece and three issued patents directed to the system. The 31 foreign issued or granted patents, expiring between 2033 and 2034, include machine claims, with 22 issued or granted patents directed to the hand-piece and nine issued or granted patents directed to the system. The 31 foreign issued or granted patents include three Chinese patents, seven Japanese patents, four German patents, three Spanish patents, four French patents, four United Kingdom patents, three Irish patents and three Italian patents.

There is no active patent litigation involving any of our patents and we have not received any notices of patent infringement

As of June 30, 2021, we had 36 pending and registered trademark filings worldwide, some of which may provide trademark protection in multiple countries.

We also rely, in part, upon unpatented trade secrets, know-how and continuing technological innovation, and may in the future rely upon licensing opportunities, to develop and maintain our competitive position. We protect our proprietary rights through a variety of methods, including confidentiality and assignment agreements with suppliers, employees, consultants and others who may have access to our proprietary information.

Our pending patent applications may not result in issued patents, and we cannot assure you that any current or subsequently issued patents will protect our intellectual property rights or provide us with any competitive advantage. While there is no active litigation involving any of our patents or other intellectual property rights and we have not received any notices of patent infringement, we may be required to enforce or defend our intellectual property rights against third parties in the future. See the section titled “Risk Factors—Risks Related to Intellectual Property Matters” for additional information regarding these and other risks related to our intellectual property portfolio and their potential effect on us.

License Agreement with AquaBeam

In 2008, we assigned to AquaBeam LLC, or AquaBeam, certain provisional patent applications, or AquaBeam Patent Applications, which have since issued as patents, and any future patent applications that claim priority to the AquaBeam Patent Applications, or AquaBeam Patents. AquaBeam is affiliated with Rodney Perkins, one of our co-founders and a member of our board of directors who will resign from the board effective immediately upon effectiveness of the registration statement of which this prospectus is a part, and Nikolai Aljuri, who holds more than 5% of our common stock.

In September 2019, we entered into an amended and restated license agreement, or the AquaBeam License Agreement, with AquaBeam. Pursuant to the AquaBeam License Agreement, AquaBeam grants us a worldwide, exclusive (even as to AquaBeam), sublicensable, royalty-free license under the AquaBeam Patents and to all other patent rights owned by AquaBeam, which are filed on or before the earlier of October 28, 2021 and the date on which we are acquired by a third party, that claim certain technology related to delivering energy to tissues by directing a liquid fluid stream, or together with AquaBeam Patents, Licensed Patents, in the field of urology, or Field. Pursuant to the AquaBeam License Agreement, and subject to the terms therein, we grant AquaBeam a worldwide, exclusive (even as to us), sublicensable, royalty-free license under certain of our patents rights, which are filed on or before the earlier of October 28, 2021 and the date on which AquaBeam is acquired by a third party, that claim certain technology related to delivering energy to tissues by directing a liquid fluid stream, or PROCEPT Patents, outside the Field. No upfront payments or milestone payments (except for patent prosecution and maintenance costs) have been made or are otherwise required under the AquaBeam License Agreement.

If AquaBeam desires to grant a license under the Licensed Patents to any third party outside the Field on or before the earlier of October 28, 2021 and the date on which AquaBeam is acquired by a third party, we have the first right to negotiate such license grant pursuant to the terms of the AquaBeam License Agreement.

AquaBeam has the first right to prosecute and maintain the Licensed Patents and we have the right to step-in if AquaBeam declines or fails to prosecute or maintain any of the Licensed Patents. We have the first right to prosecute and maintain the PROCEPT Patents. We have the first right to enforce the Licensed Patents and the PROCEPT Patents if a third party infringes on any such patents in the Field, provided, if such third party infringes

the Licensed Patents or the PROCEPT Patents both in and outside of the Field , or Cross-Field Infringement, and AquaBeam or any of its other licensees under the Licensed Patents or the PROCEPT Patents are developing or commercializing products that are covered by the infringed Licensed Patents or the PROCEPT Patents, then AquaBeam and we will discuss which party will control the enforcement action with respect to such Cross-Field Infringement.

The AquaBeam License Agreement will remain in full force and effect on a country-by-country basis until the last to expire of the Licensed Patents and the PROCEPT Patents in such country. The expiration date of the last-to-expire of the Licensed Patents and PROCEPT Patents will not be earlier than 2037. The AquaBeam License Agreement may be terminated by either party in the event of uncured material breach by the other party that remains uncured for 90 days (or 30 days for payment related breaches), or bankruptcy of the other party.

Government Regulation

Our products and our operations are subject to extensive regulation by the FDA and other federal and state authorities in the United States, as well as comparable authorities in the EEA. Our products are subject to regulation as medical devices under the Federal Food, Drug, and Cosmetic Act, or FDCA, as implemented and enforced by the FDA. The FDA regulates the development, design, non-clinical and clinical research, manufacturing, safety, efficacy, labeling, packaging, storage, installation, servicing, recordkeeping, premarket clearance or approval, import, export, adverse event reporting, advertising, promotion, marketing and distribution, and import and export of medical devices to ensure that medical devices distributed domestically are safe and effective for their intended uses and otherwise meet the requirements of the FDCA.

In addition to U.S. regulations, we are subject to a variety of regulations in the EEA governing clinical trials and the commercial sales and distribution of our products. Whether or not we have or are required to obtain FDA clearance or approval for a product, we will be required to obtain authorization before commencing clinical trials and to obtain marketing authorization or approval of our products under the comparable regulatory authorities of countries outside of the United States before we can commence clinical trials or commercialize our products in those countries. The approval process varies from country to country and the time may be longer or shorter than that required for FDA clearance or approval.

FDA Premarket Clearance and Approval Requirements

Unless an exemption applies, each medical device commercially distributed in the United States requires either FDA clearance of a 510(k) premarket notification or PMA approval. Under the FDCA, medical devices are classified into one of three classes—Class I, Class II or Class III—depending on the degree of risk associated with each medical device and the extent of manufacturer and regulatory control needed to ensure its safety and effectiveness. Class I includes devices with the lowest risk to the patient and are those for which safety and effectiveness can be assured by adherence to the FDA's General Controls for medical devices, which include compliance with the applicable portions of the QSR, facility registration and product listing, reporting of adverse medical events, and truthful and non-misleading labeling, advertising, and promotional materials. Class II devices are subject to the FDA's General Controls, and special controls as deemed necessary by the FDA to ensure the safety and effectiveness of the device. These special controls can include performance standards, post-market surveillance, patient registries and FDA guidance documents. While most Class I devices are exempt from the 510(k) premarket notification requirement, manufacturers of most Class II devices are required to submit to the FDA a premarket notification under Section 510(k) of the FDCA requesting permission to commercially distribute the device. The FDA's permission to commercially distribute a device subject to a 510(k) premarket notification is generally known as 510(k) clearance. Under the 510(k) process, the manufacturer must submit to the FDA a premarket notification demonstrating that the device is "substantially equivalent" to either a device that was legally marketed prior to May 28, 1976, the date upon which the Medical Device Amendments of 1976 were enacted, or another commercially available device that was cleared to through the 510(k) process.

Devices deemed by the FDA to pose the greatest risks, such as life-sustaining, life-supporting or some implantable devices, or devices that have a new intended use, or use advanced technology that is not substantially

equivalent to that of a legally marketed device, are placed in Class III, requiring are unclassified, but are subject to the FDA's premarket notification and clearance process in order to be commercially distributed.

De Novo Classification

Medical device types that the FDA has not previously classified as Class I, II or III are automatically classified into Class III regardless of the level of risk they pose. The Food and Drug Administration Modernization Act of 1997 established a new route to market for low to moderate risk medical devices that are automatically placed into Class III due to the absence of a predicate device, called the "Request for Evaluation of Automatic Class III Designation," or the de novo classification procedure.

This procedure allows a manufacturer whose novel device is automatically classified into Class III to request down-classification of its medical device into Class I or Class II on the basis that the device presents low or moderate risk, rather than requiring the submission and approval of a PMA application. Prior to the enactment of the Food and Drug Administration Safety and Innovation Act of 2012, or FDASIA, a medical device could only be eligible for de novo classification if the manufacturer first submitted a 510(k) pre-market notification and received a determination from the FDA that the device was not substantially equivalent. FDASIA streamlined the de novo classification pathway by permitting manufacturers to request de novo classification directly without first submitting a 510(k) pre-market notification to the FDA and receiving a not substantially equivalent determination. Under FDASIA, the FDA is required to classify the device within 120 days following receipt of the de novo application. If the manufacturer seeks reclassification into Class II, the manufacturer must include a draft proposal for special controls that are necessary to provide a reasonable assurance of the safety and effectiveness of the medical device. In addition, the FDA may reject the reclassification petition if it identifies a legally marketed predicate device that would be appropriate for a 510(k) or determines that the device is not low to moderate risk or that general controls would be inadequate to control the risks and special controls cannot be developed.

Our currently marketed AquaBeam Robotic System is a Class II device, which was initially granted marketing authorization pursuant to a de novo classification. We have subsequently received FDA clearance of a 510(k) pre-market notification for modifications to the AquaBeam Robotic System where we used the initially authorized device as the predicate device for our more recent 510(k) clearance.

PMA Approval Pathway

Class III devices require PMA approval before they can be marketed although some pre-amendment Class III devices for which the FDA has not yet required a PMA are cleared through the 510(k) process. The PMA process is more demanding than the 510(k) premarket notification process. In a PMA, the manufacturer must demonstrate that the device is safe and effective, and the PMA must be supported by extensive data, including data from preclinical studies and human clinical trials. The PMA must also contain a full description of the device and its components, a full description of the methods, facilities and controls used for manufacturing, and proposed labeling. Following receipt of a PMA, the FDA determines whether the application is sufficiently complete to permit a substantive review. If the FDA accepts the application for review, it has 180 days under the FDCA to complete its review of a PMA, although in practice, the FDA's review often takes significantly longer, and can take up to several years. An advisory panel of experts from outside the FDA may be convened to review and evaluate the application and provide recommendations to the FDA as to the approvability of the device. The FDA may or may not accept the panel's recommendation. In addition, the FDA will generally conduct a preapproval inspection of the applicant or its third-party manufacturers' or suppliers' manufacturing facility or facilities to ensure compliance with the Quality System Regulation, or QSR. PMA applications are also subject to the payment of user fees, which for fiscal year 2021 includes a standard application fee of $365,657.

The FDA will approve the new device for commercial distribution if it determines that the data and information in the PMA constitute valid scientific evidence and that there is reasonable assurance that the device is safe and effective for its intended use(s). The FDA may approve a PMA with post-approval conditions intended to ensure the safety and effectiveness of the device, including, among other things, restrictions on labeling, promotion, sale and distribution, and collection of long-term follow-up data from patients in the clinical study that supported PMA approval or requirements to conduct additional clinical studies post-approval. The FDA may condition PMA

approval on some form of post-market surveillance when deemed necessary to protect the public health or to provide additional safety and efficacy data for the device in a larger population or for a longer period of use. In such cases, the manufacturer might be required to follow certain patient groups for a number of years and to make periodic reports to the FDA on the clinical status of those patients. Failure to comply with the conditions of approval can result in material adverse enforcement action, including withdrawal of the approval.

Certain changes to an approved device, such as changes in manufacturing facilities, methods, or quality control procedures, or changes in the design performance specifications, which affect the safety or effectiveness of the device, require submission of a PMA supplement. PMA supplements often require submission of the same type of information as a PMA, except that the supplement is limited to information needed to support any changes from the device covered by the original PMA and may not require as extensive clinical data or the convening of an advisory panel. Certain other changes to an approved device require the submission of a new PMA, such as when the design change causes a different intended use, mode of operation, and technical basis of operation, or when the design change is so significant that a new generation of the device will be developed, and the data that were submitted with the original PMA are not applicable for the change in demonstrating a reasonable assurance of safety and effectiveness.

Clinical Trials

Clinical trials are almost always required to support a PMA and are sometimes required to support a 510(k) submission. All clinical investigations of investigational devices to determine safety and effectiveness must be conducted in accordance with the FDA's investigational device exemption, or IDE, regulations which govern investigational device labeling, prohibit promotion of the investigational device, and specify an array of recordkeeping, reporting and monitoring responsibilities of study sponsors and study investigators. If the device presents a "significant risk" to human health, as defined by the FDA, the FDA requires the device sponsor to submit an IDE application to the FDA, which must become effective prior to commencing human clinical trials. A significant risk device is one that presents a potential for serious risk to the health, safety or welfare of a patient and either is implanted, used in supporting or sustaining human life, substantially important in diagnosing, curing, mitigating or treating disease or otherwise preventing impairment of human health, or otherwise presents a potential for serious risk to a subject. An IDE application must be supported by appropriate data, such as animal and laboratory test results, showing that it is safe to test the device in humans and that the testing protocol is scientifically sound. The IDE will automatically become effective 30 days after receipt by the FDA unless the FDA notifies the company that the investigation may not begin. If the FDA determines that there are deficiencies or other concerns with an IDE for which it requires modification, the FDA may permit a clinical trial to proceed under a conditional approval.

Regardless of the degree of risk presented by the medical device, clinical studies must be approved by, and conducted under the oversight of, an Institutional Review Board, or IRB, for each clinical site. The IRB is responsible for the initial and continuing review of the IDE, and may impose additional requirements for the conduct of the study. If an IDE application is approved by the FDA and one or more IRBs, human clinical trials may begin at a specific number of investigational sites with a specific number of patients, as approved by the FDA. If the device presents a non-significant risk to the patient, a sponsor may begin the clinical trial after obtaining approval for the trial by one or more IRBs without separate approval from the FDA, but must still follow abbreviated IDE requirements, such as monitoring the investigation, ensuring that the investigators obtain informed consent, and labeling and record-keeping requirements. Acceptance of an IDE application for review does not guarantee that the FDA will allow the IDE to become effective and, if it does become effective, the FDA may or may not determine that the data derived from the trials support the safety and effectiveness of the device or warrant the continuation of clinical trials. An IDE supplement must be submitted to, and approved by, the FDA before a sponsor or investigator may make a change to the investigational plan that may affect its scientific soundness, study plan or the rights, safety or welfare of human subjects.

During a study, the sponsor is required to comply with the applicable FDA requirements, including, for example, trial monitoring, selecting clinical investigators and providing them with the investigational plan, ensuring IRB review, adverse event reporting, record keeping and prohibitions on the promotion of investigational devices or on making safety or effectiveness claims for them. The clinical investigators in the clinical study are also subject to

FDA regulations and must obtain patient informed consent, rigorously follow the investigational plan and study protocol, control the disposition of the investigational device, and comply with all reporting and recordkeeping requirements. Additionally, after a trial begins, we, the FDA or the IRB could suspend or terminate a clinical trial at any time for various reasons, including a belief that the risks to study subjects outweigh the anticipated benefits.

Post-Market Regulation

After a device is cleared or approved for marketing, numerous and pervasive regulatory requirements continue to apply. These include:

- establishment registration and device listing with the FDA;
- QSR requirements, which require manufacturers, including third-party manufacturers, to follow stringent design, testing, control, documentation and other quality assurance procedures during all aspects of the design and manufacturing process;
- labeling and marketing regulations, which require that promotion is truthful, not misleading, fairly balanced and provide adequate directions for use and that all claims are substantiated, and also prohibit the promotion of products for unapproved or "off-label" uses and impose other restrictions on labeling; FDA guidance on off-label dissemination of information and responding to unsolicited requests for information;
- clearance or approval of product modifications to 510(k)-cleared devices that could significantly affect safety or effectiveness or that would constitute a major change in intended use of one of our cleared devices, or approval of a supplement for certain modifications to PMA devices;
- medical device reporting regulations, which require that a manufacturer report to the FDA if a device it markets may have caused or contributed to a death or serious injury, or has malfunctioned and the device or a similar device that it markets would be likely to cause or contribute to a death or serious injury, if the malfunction were to recur;
- correction, removal and recall reporting regulations, which require that manufacturers report to the FDA field corrections and product recalls or removals if undertaken to reduce a risk to health posed by the device or to remedy a violation of the FDCA that may present a risk to health;
- complying with the new federal law and regulations requiring Unique Device Identifiers, or UDI, on devices and also requiring the submission of certain information about each device to the FDA's Global Unique Device Identification Database, or GUDID;
- the FDA's recall authority, whereby the agency can order device manufacturers to recall from the market a product that is in violation of governing laws and regulations; and
- post-market surveillance activities and regulations, which apply when deemed by the FDA to be necessary to protect the public health or to provide additional safety and effectiveness data for the device.

Manufacturing processes for medical devices are required to comply with the applicable portions of the QSR, which cover the methods and the facilities and controls for the design, manufacture, testing, production, processes, controls, quality assurance, labeling, packaging, distribution, installation and servicing of finished devices intended for human use. The QSR also requires, among other things, maintenance of a device master file, device history file, and complaint files. As a manufacturer, our facilities, records and manufacturing processes are subject to periodic scheduled or unscheduled inspections by the FDA. Our failure to maintain compliance with the QSR or other applicable regulatory requirements could result in the shut-down of, or restrictions on, our manufacturing operations and the recall or seizure of our products. The discovery of previously unknown problems with any of our products, including unanticipated adverse events or adverse events of increasing severity or frequency, whether resulting from the use of the device within the scope of its clearance or off-label by a physician in the practice of medicine, could result in restrictions on the device, including the removal of the product from the market or voluntary or mandatory device recalls.

The FDA has broad regulatory compliance and enforcement powers. If the FDA determines that we failed to comply with applicable regulatory requirements, it can take a variety of compliance or enforcement actions, which may result in any of the following sanctions:

- warning letters, untitled letters, fines, injunctions, consent decrees and civil penalties;
- recalls, withdrawals, or administrative detention or seizure of our products;
- operating restrictions or partial suspension or total shutdown of production;
- refusing or delaying requests for 510(k) marketing clearance or PMA approvals of new products or modified products;
- withdrawing 510(k) clearances or PMA approvals that have already been granted;
- refusal to grant export or import approvals for our products; or
- criminal prosecution.

Regulation of Medical Devices in the EEA

There is currently no premarket government of medical devices in the EEA (which is comprised of the 28 Member States of the EU plus Norway, Liechtenstein and Iceland). However, all medical devices placed on the market in the EEA must meet the relevant essential requirements laid down in Annex I of Directive 93/42/EEC concerning medical devices, or the Medical Devices Directive, and the regulations laid down in the 2017/745, or the Medical Device Regulations. There is also a directive specifically addressing Active Implantable Medical Devices (Directive 90/385/EEC). The most fundamental essential requirement is that a medical device must be designed and manufactured in such a way that it will not compromise the clinical condition or safety of patients, or the safety and health of users and others. In addition, the device must achieve the performances intended by the manufacturer and be designed, manufactured and packaged in a suitable manner. The European Commission has adopted various standards applicable to medical devices. These include standards governing common requirements, such as sterilization and safety of medical electrical equipment, and product standards for certain types of medical devices. There are also harmonized standards relating to design and manufacture. While not mandatory, compliance with these standards is viewed as the easiest way to satisfy the essential requirements as a practical matter. Compliance with a standard developed to implement an essential requirement also creates a rebuttable presumption that the device satisfies that essential requirement.

To demonstrate compliance with the essential requirements laid down in Annex I to the Medical Devices Directive, medical device manufacturers must undergo a conformity assessment procedure, which varies according to the type of medical device and its classification. Conformity assessment procedures require an assessment of available clinical evidence, literature data for the product and post-market experience in respect of similar products already marketed. Except for low-risk medical devices (Class I non-sterile, non-measuring devices), where the manufacturer can self-declare the conformity of its products with the essential requirements (except for any parts which relate to sterility or metrology), a conformity assessment procedure requires the intervention of a Notified Body. Notified bodies are often separate entities and are authorized or licensed to perform such assessments by government authorities. The notified body would typically audit and examine a product's technical dossiers and the manufacturers' quality system. If satisfied that the relevant product conforms to the relevant essential requirements, the notified body issues a certificate of conformity, which the manufacturer uses as a basis for its own declaration of conformity. The manufacturer may then apply the CE Mark to the device, which allows the device to be placed on the market throughout the EEA. Once the product has been placed on the market in the EEA, the manufacturer must comply with requirements for reporting incidents and field safety corrective actions associated with the medical device.

In order to demonstrate safety and efficacy for their medical devices, manufacturers must conduct clinical investigations in accordance with the requirements of Annex X to the Medical Devices Directive, Annex 7 of the Active Implantable Medical Devices Directive, and applicable European and International Organization for

Standardization standards, as implemented or adopted in the EEA member states. Clinical trials for medical devices usually require the approval of an ethics review board and approval by or notification to the national regulatory authorities. Both regulators and ethics committees also require the submission of serious adverse event reports during a study and may request a copy of the final study report.

On May 25, 2017 the new Medical Devices Regulation, or 2017/745 or MDR, was adopted by the European Parliament, which repeals and replaces the EU Medical Devices Directive and the Active Implantable Medical Devices Directive. Following its entry into application on May 26, 2021, the MDR will introduce substantial changes to the obligations with which medical device manufacturers must comply in the EU. High risk medical devices will be subject to additional scrutiny during the conformity assessment procedure. Unlike directives, which must be implemented into the national laws of the EEA member states, the regulations would be directly applicable, i.e., without the need for adoption of EEA member state laws implementing them, in all EEA member states and are intended to eliminate current differences in the regulation of medical devices among EEA member States. The Medical Devices Regulation, among other things, is intended to establish a uniform, transparent, predictable and sustainable regulatory framework across the EEA for medical devices and ensure a high level of safety and health while supporting innovation.

On the effective date, May 26, 2021, the new regulations will among other things:

- strengthen the rules on placing devices on the market and reinforce surveillance once they are available;
- establish explicit provisions on manufacturers' responsibilities for the follow-up of the quality, performance and safety of devices placed on the market;
- improve the traceability of medical devices throughout the supply chain to the end-user or patient through a unique identification number;
- set up a central database to provide patients, healthcare professionals and the public with comprehensive information on products available in the EU;
- strengthened rules for the assessment of certain high-risk devices, such as implants, which may have to undergo an additional check by experts before they are placed on the market.

We are subject to regulations and product registration requirements in many foreign countries in which we may sell our products, including in the areas of:

- design, development, manufacturing and testing;
- product standards;
- product safety;
- product safety reporting;
- marketing, sales and distribution;
- packaging and storage requirements;
- labeling requirements;
- content and language of instructions for use;
- clinical trials;
- record keeping procedures;
- advertising and promotion;
- recalls and field corrective actions;

- post-market surveillance, including reporting of deaths or serious injuries and malfunctions that, if they were to recur, could lead to death or serious injury;
- import and export restrictions;
- tariff regulations, duties and tax requirements;
- registration for reimbursement; and
- necessity of testing performed in country by distributors for licensees.

The time required to obtain clearance required by foreign countries may be longer or shorter than that required for FDA clearance, and requirements for licensing a product in a foreign country may differ significantly from FDA requirements.

We expect this revised regulation to include further controls and requirements on the following activities:

- high level of request for premarket clinical evidence for high risk devices;
- increased scrutiny of technical files for implantable devices;
- monitoring of notified bodies, by independent auditors;
- increased requirements regarding vigilance and product traceability (specifically related to labeling requirements); and
- increased regulation for non-traditional roles such as importer and distributor.

Federal, State and Foreign Fraud and Abuse and Physician Payment Transparency Laws

In addition to FDA restrictions on marketing and promotion of drugs and devices, other federal and state laws restrict our business practices. These laws include, without limitation, foreign, federal, and state anti-kickback and false claims laws, as well as transparency laws regarding payments or other items of value provided to healthcare providers.

The federal Anti-Kickback Statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind to induce or in return for purchasing, leasing, ordering or arranging for or recommending the purchase, lease or order of any good, facility, item or service reimbursable, in whole or in part, under Medicare, Medicaid or other federal healthcare programs. The term “remuneration” has been broadly interpreted to include anything of value, including stock, stock options, and the compensation derived through ownership interests.

Although there are a number of statutory exceptions and regulatory safe harbors protecting some common activities from prosecution, the exceptions and safe harbors are drawn narrowly. Our arrangements with physicians, hospitals and other persons or entities who are in a position to refer may not fully meet the stringent criteria specified in the various safe harbors. Practices that involve remuneration that may be alleged to be intended to induce prescribing, purchases or recommendations may be subject to scrutiny if they do not qualify for an exception or safe harbor. Failure to meet all of the requirements of a particular applicable statutory exception or regulatory safe harbor does not make the conduct per se illegal under the federal Anti-Kickback Statute. Instead, the legality of the arrangement will be evaluated on a case-by-case basis based on a cumulative review of all its facts and circumstances. Several courts have interpreted the statute’s intent requirement to mean that if any one purpose of an arrangement involving remuneration is to induce referrals of federal healthcare covered business, the federal Anti-Kickback Statute has been violated. In addition, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation. Moreover, a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the federal civil False Claims Act (described below).

Violations of the federal Anti-Kickback Statute may result in significant civil monetary penalties for each violation, plus up to three times the remuneration involved. Civil penalties for such conduct can further be assessed under the federal False Claims Act. Violations can also result in criminal penalties, including significant criminal fines and imprisonment, as well as exclusion from participation in government healthcare programs, including Medicare and Medicaid. Liability under the federal Anti-Kickback Statute may also arise because of the intentions or actions of the parties with whom we do business. Conduct and business arrangements that do not fully satisfy one of these safe harbor provisions may result in increased scrutiny by government enforcement authorities. The majority of states also have anti-kickback laws which establish similar prohibitions and, in some cases, may apply more broadly to items or services covered by any third-party payor, including commercial insurers and self-pay patients.

The federal civil False Claims Act prohibits, among other things, any person or entity from knowingly presenting, or causing to be presented, a false or fraudulent claim for payment of government funds or knowingly making, using or causing to be made or used a false record or statement material to a false or fraudulent claim to the federal government. In addition, private parties may initiate "qui tam" whistleblower lawsuits against any person or entity under the federal civil False Claims Act in the name of the government and share in the proceeds of any monetary recovery. Penalties for federal civil False Claim Act violations include penalties for each false claim, plus up to three times the amount of damages sustained by the federal government and, most critically, may provide the basis for exclusion from the federally funded healthcare program. There are also criminal penalties for making or presenting of a claim to the government knowing such claim to be false, fictitious or fraudulent.

HIPAA created additional federal criminal statutes that prohibit among other actions, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program, including private third-party payors, knowingly and willfully embezzling or stealing from a healthcare benefit program, willfully obstructing a criminal investigation of a healthcare offense, and knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statement in connection with the delivery of or payment for healthcare benefits, items or services. Similar to the federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation.

Many foreign countries have similar laws relating to healthcare fraud and abuse. Foreign laws and regulations may vary greatly from country to country. For example, the advertising and promotion of our products is subject to EU Directives concerning misleading and comparative advertising and unfair commercial practices, as well as other EEA Member State legislation governing the advertising and promotion of medical devices. These laws may limit or restrict the advertising and promotion of our products to the general public and may impose limitations on our promotional activities with healthcare professionals.

Additionally, there has been a recent trend of increased foreign, federal, and state regulation of payments and transfers of value provided to healthcare professionals or entities. The federal Physician Payments Sunshine Act requires manufacturers of drugs, devices, biologics and medical supplies for which payment is available under Medicare, Medicaid, or the Children's Health Insurance Program to report annually to the CMS, information related to payments or and other "transfers of value" made to physicians (currently defined to include doctors, dentists, optometrists, podiatrists and chiropractors) and teaching hospitals, and requires applicable manufacturers to report annually to CMS ownership and investment interests held by physicians and their immediate family members and payments or other "transfers of value" to such physician owners. Beginning in 2022, applicable manufacturers also will be required to report information regarding payments and transfers of value provided (beginning in 2021) to physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, anesthesiology assistants and certified nurse-midwives. Certain foreign countries and U.S. states also mandate implementation of commercial compliance programs, impose restrictions on device manufacturer marketing practices and require tracking and reporting of gifts, compensation and other remuneration to healthcare professionals and entities.

Healthcare Reform Measures

In the United States, there have been, and may continue to be, a number of legislative and regulatory changes to the healthcare system. Federal and state lawmakers regularly propose and, at times, enact legislation that would

result in significant changes to the healthcare system, some of which are intended to contain or reduce the costs of medical products and services.

By way of example, in the United States, the ACA was enacted in March 2010 and substantially changed the way healthcare is financed by both governmental and private insurers, and significantly impacts our industry. The ACA contained a number of provisions, including those governing enrollment in federal healthcare programs, reimbursement changes and fraud and abuse measures, all of which have impacted existing government healthcare programs and will result in the development of new programs. Since its enactment, there have been judicial, executive and Congressional challenges to certain aspects of the ACA. On June 17, 2021, the Supreme Court ruled that states and individuals lacked standing to challenge the constitutionality of the ACA's individual mandate, post-repeal of its associated tax penalty. Additionally, President Biden issued an executive order that initiated a special enrollment period for purposes of obtaining health insurance coverage through the ACA marketplace, which began on February 15, 2021 and will remain open through August 15, 2021. The executive order also instructed certain governmental agencies to review and reconsider their existing policies and rules that limit access to healthcare, including among others, reexamining Medicaid demonstration projects and waiver programs that include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA. Additional legislative changes, regulatory changes and judicial challenges related to the ACA remain possible. We cannot predict what effect further changes related to the ACA, including under the Biden administration, will have on our business.

In addition, other legislative changes have been proposed and adopted since the ACA was enacted. For example, the Budget Control Act of 2011, among other things, and in connection with subsequent legislation, reduced CMS Medicare payments to providers of, on average, 2% per fiscal year, which went into effect on April 1, 2013 and, due to subsequent legislative amendments to the statute, will remain in effect through 2030, with the exception of a temporary suspension from May 1, 2020 through December 31, 2021, unless additional Congressional action is taken. Additionally, the American Taxpayer Relief Act of 2012, among other things, further reduced Medicare payments to several categories of healthcare providers, including hospitals, and increased the statute of limitations period for the government to recover Medicare overpayments to providers from three to five years. The current presidential administration and Congress may continue to pursue significant changes to the current healthcare laws.

Data Privacy and Security Laws

Numerous state, federal and foreign laws, including consumer protection laws and regulations, govern the collection, dissemination, use, access to, confidentiality and security of personal information, including health-related information. In the United States, numerous federal and state laws and regulations, including data breach notification laws, health information privacy and security laws, including HIPAA, and federal and state consumer protection laws and regulations (e.g., Section 5 of the FTC Act), that govern the collection, use, disclosure, and protection of health-related and other personal information could apply to our operations or the operations of our partners. For example, HIPAA, as amended by HITECH, and their implementing regulations, impose obligations, including mandatory contractual terms, on certain covered healthcare providers, health plans, and healthcare clearinghouses and their respective business associates and covered subcontractors that perform services for them that involve the use, or disclosure of, individually identifiable health information with respect to safeguarding the privacy, security and transmission of individually identifiable health information. In addition, certain state and non-U.S. laws, such as the CCPA, the CPRA and the GDPR, govern the privacy and security of personal information, including health-related information in certain circumstances, some of which are more stringent than HIPAA and many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts. Failure to comply with these laws, where applicable, can result in the imposition of significant civil and/or criminal penalties and private litigation. Privacy and security laws, regulations, and other obligations are constantly evolving, may conflict with each other to complicate compliance efforts, and can result in investigations, proceedings, or actions that lead to significant civil and/or criminal penalties and restrictions on data processing.

Anti-Bribery and Corruption Laws

Our U.S. operations are subject to the FCPA. We are required to comply with the FCPA, which generally prohibits covered entities and their employees, agents and intermediaries from engaging in bribery or authorizing, promising, providing, or offering, directly or indirectly, anything of value to foreign officials for the purpose of obtaining or retaining business or other benefits. In addition, the FCPA imposes accounting standards and requirements on publicly traded U.S. corporations and their foreign affiliates, which requires such companies to maintain complete and accurate books and records and maintain a system of internal accounting controls. We also are subject to similar anticorruption laws and regulations implementing the Organization for Economic Co-operation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Facilities

Our principal office is located at 900 Island Drive, Redwood City, California, where we lease approximately 43,485 square feet of office space. We lease this space under a lease that terminates on October 29, 2023. We intend to add new facilities as we add employees, and we believe that suitable additional or substitute space will be available as needed to accommodate any such expansion of our operations.

Employees and Human Capital Resources

As of June 30, 2021, we had 205 employees. None of our employees is subject to a collective bargaining agreement or represented by a trade or labor union. We consider our relationship with our employees to be good.

Our human capital resources objectives include, as applicable, identifying, recruiting, retaining, incentivizing and integrating our existing and additional employees. The principal purposes of our equity incentive plans are to attract, retain and motivate selected employees, consultants and directors through the granting of stock-based compensation awards and cash-based performance bonus awards.

Legal Proceedings

From time to time, we may be involved in legal proceedings arising in the ordinary course of our business. We are not presently a party to any legal proceedings that, in the opinion of management, would have a material adverse effect on our business. Regardless of outcome, litigation can have an adverse impact on us due to defense and settlement costs, diversion of management resources, negative publicity and reputation harm, and other factors.

MANAGEMENT

Executive Officers and Directors

The following table sets forth information about our executive officers and directors, including their ages as of July 31, 2021.

Name	Age	Position
Executive Officers and Employee Directors:		
Reza Zadno, Ph.D.	66	President, Chief Executive Officer and Director
Kevin Waters	44	SVP, Chief Financial Officer
Alaleh Nouri	42	SVP, General Counsel & Corporate Secretary
Hisham Shiblaq	46	SVP, Global Commercialization
Non-Employee Directors:		
Frederic Moll, M.D.[4]	69	Director and Chair of the Board
Antal Desai[3][4]	43	Director
Amy Dodrill[2][3]	48	Director
Taylor Harris[2]	45	Director
Thomas Krummel, M.D.[3]	69	Director
Rodney Perkins, M.D.[1]	86	Director
Colby Wood[2][4]	50	Director

(1) Dr. Perkins will be resigning from our board of directors immediately upon effectiveness of the registration statement of which this prospectus is a part.
(2) Member of the audit committee.
(3) Member of the compensation committee.
(4) Member of the nominating and corporate governance committee.

Executive Officers and Employee Directors

Reza Zadno, Ph.D. Dr. Zadno has served as our President and Chief Executive Officer and a member of our board of directors since February 2020. He previously served as President and Chief Executive Officer of Avedro, Inc., a healthcare company, from September 2016 to November 2019, where he also served as a member of the board of directors from September 2016 to November 2020. Dr. Zadno also previously served as Innovation Advisor and Venture Partner at InterWest Partners, a venture capital firm, from January 2012 to January 2018. Dr. Zadno has also served on the boards of directors of Invuity, Inc. from January 2013 to June 2017, where he was a member of the audit committee, and Carbylan Therapeutics, Inc. from June 2013 to November 2016, where he was a member of the audit committee, in addition to a number of private companies. Dr. Zadno received both a Ph.D. and an M.Sc. in Mechanical Properties of Materials from Ecole Nationale Superieure des Mines de Paris.

We believe that Dr. Zadno is qualified to serve on our board of directors based on his understanding of our business and operations and perspective as our Chief Executive Officer and President.

Kevin Waters. Mr. Waters has served as our SVP, Chief Financial Officer since October 2018. He previously served as Chief Financial Officer at Accuray Incorporated, a radiation oncology company, from September 2015 to October 2018, and as its SVP, Finance from October 2013 to August 2015. Mr. Waters received a B.S. in Business Administration, with a double concentration in Accounting and Finance from Cal Poly San Luis Obispo.

Alaleh Nouri. Ms. Nouri has served as our SVP, General Counsel & Corporate Secretary since July 2018. She previously served as Senior Vice President, General Counsel, Corporate Secretary and Chief Compliance Officer at Accuray Incorporated, a radiation oncology company, from February 2014 to July 2018. Ms. Nouri received a J.D. from U.C. Hastings College of Law and a Bachelor of Commerce in International Business and also completed the requirements for a Finance specialization from the University of British Columbia.

Hisham Shiblaq. Mr. Shiblaq has served as our SVP, Global Commercialization since March 2019. He previously served as Vice President of Commercial Operations at Invuity, Inc., a medical device company, from January 2017 to January 2019 and as Vice President of Sales at Analogic Corporation from June 2016 to January 2017. Mr. Shiblaq received a B.A. in Psychology from Ohio State University.

Non-Employee Directors

Frederic Moll, M.D. Dr. Moll has served as a member of our board of directors since August 2011 and has served as Chair since March 2021. Since April 2019, Dr. Moll has served as Chief Development Officer for Johnson & Johnson Medical Devices Companies. Dr. Moll was also a co-founder, and, from September 2012 to 2019, was the Chairman and Chief Executive Officer of Auris Health, Inc. Dr. Moll previously served as member and as Chairman of the board of Restoration Robotics, Inc., from November 2002 until its merger with Venus Concept in November 2019. He has also served on the boards of Shockwave Medical, Inc., since March 2011, where he is a member of the nominating and corporate governance committee, INSIGHTEC Ltd., since June 2020, where he is a member of the audit committee, and Lux Health Tech Acquisition Corp., since June 2020, where he is a member of the audit committee, and he previously served on the board of directors at IntersectENT, Inc. from March 2010 to February 2021, where he was a member of the nominating and corporate governance committee. Dr. Moll received a B.A. in economics from the University of California at Berkeley, an M.S. in management from Stanford University and an M.D. from the University of Washington.

We believe Dr. Moll's deep experience in the healthcare sector and his medical background and experience provide him with the qualifications and skills to serve on our board of directors.

Antal Desai. Mr. Desai has served as a member of our board of directors since June 2015. Mr. Desai joined Cardinal Investment Company, Inc. in September 2004, the predecessor firm to CPMG, Inc., an investment firm that invests in publicly-traded and private companies globally, were he currently serves as a Partner. Mr. Desai is a director at several private companies. Mr. Desai received both a B.S. in Economics and an M.B.A. from the Wharton School at the University of Pennsylvania.

We believe Mr. Desai is qualified to serve on our board of directors due to his experience as a director of several companies and his experience investing in publicly-traded companies in the healthcare industry.

Amy Dodrill. Ms. Dodrill has served as a member of our board of directors since June 2021. Ms. Dodrill has worked at Hillrom Holdings, Inc., a company specializing in medical device innovation, since October 2012. During her time at Hillrom, Ms. Dodrill has held various positions including President of Global Surgical, Vice President and General Manager of the US Surgical Division and Vice President and General Manager of Trumpf Medical Surgical Solutions NA. Ms. Dodrill holds a B.S. from Johns Hopkins University.

We believe Ms. Dodrill is qualified to serve on our board of directors because of her expertise in managing medical device companies.

Taylor Harris. Mr. Harris has served as a member of our board of directors since December 2020. Mr. Harris served as the Chief Financial Officer for MyoKardia, Inc., a clinical-stage biopharmaceutical company, from April 2018 until that company's acquisition by Bristol Myers Squibb in November 2020. Previously, Mr. Harris served as Senior Vice President and Chief Financial Officer of Zeltiq Aesthetics, Inc., a company that markets and licenses devices used for cryolipolysis procedures, from March 2016 until that company's acquisition by Allergan plc. in April 2017. Mr. Harris has served as a member of the board of directors of HealthCor Catalio Acquisition Company, where he is also a member of the audit committee, since January 2021. Mr. Harris holds a B.A. in Physics and Economics from the University of North Carolina at Chapel Hill.

We believe that Mr. Harris is qualified to serve on our board of directors because of his extensive finance, accounting and operations experience and experience in managing medical device companies.

Thomas Krummel M.D. Dr. Krummel has served as a member of our board of directors since December 2010. Since October 1998, Dr. Krummel has been a professor at Stanford University and has served as Venture Partner at Santé Ventures, an early stage medical technology investment firm, since March 2021. He has been a member of the

board of directors of California Water Service Group since July 2010, where he serves as a member of the Nominating Corporate Governance committee and serves as Chair of the Compensation committee, in addition to a number of private companies. Dr. Krummel received a B.S. in Chemistry from University of Wisconsin at Parkside and an M.D. from the Medical College of Wisconsin.

We believe Dr. Krummel is qualified to serve on our board of directors due to his expertise with medical, public health and science issues.

Rodney Perkins, M.D. Dr. Perkins is one of our co-founders and will be resigning from our board of directors immediately upon effectiveness of the registration statement of which this prospectus forms a part after having served as a member of our board of directors since April 2007. Dr. Perkins previously served as our Chairman of the Board from May 2007 to March 2021. Dr. Perkins is an internationally known surgeon who has participated actively in the development of multiple successful medical device companies. Dr. Perkins holds an M.D. from The Indiana University and completed his surgical residency at The Stanford University School of Medicine.

We believe that Dr. Perkins is qualified to serve on our board of directors because of his extensive experience with medical technology companies and the historical knowledge and continuity he brings to our board of directors.

Colby Wood. Mr. Wood has served as a member of our board of directors since February 2014. Since March 2018, Mr. Wood has been a Managing Partner at Sonder Capital Management, LLC, a healthcare venture capital investment firm. Prior to this, Mr. Wood was a Portfolio Manager and Equity Analyst at Oechsle International Advisors, Ltd., an international investment advisors, from December 2011 to December 2017. Mr. Wood currently serves on the board of directors for two private companies. Mr. Wood received his B.A. in English from University of Delaware and M.B.A. from F.W. Olin Graduate School of Business at Babson College.

We believe Mr. Wood is qualified to serve on our board of directors because of his financial expertise and deep knowledge of the healthcare industry.

Family Relationships

There are no family relationships among any of our executive officers or directors.

Composition of the Board of Directors after This Offering

Our business and affairs are managed under the direction of the board of directors. Our board of directors will consist of seven directors.

In accordance with our amended and restated certificate of incorporation, each of which will be in effect upon the closing of this offering, our board of directors will be divided into three classes with staggered three year terms. At each annual meeting of stockholders after the initial classification, the successors to the directors whose terms will then expire will be elected to serve from the time of election and qualification until the third annual meeting following their election. Our directors will be divided among three classes as follows:

- the Class I directors will be and , and their terms will expire at the annual meeting of stockholders to be held in 2022;
- the Class II directors will be and , and their terms will expire at the annual meeting of stockholders to be held in 2023; and
- the Class III directors will be and , and their terms will expire at the annual meeting of stockholders to be held in 2024.

This classification of our board of directors may have the effect of delaying or preventing changes in control of our Company.

Director Independence

We have applied to have our common stock listed on the Nasdaq Global Market. Under the rules of the Nasdaq Global Market, independent directors must comprise a majority of a listed company's board of directors within a specified period of the completion of this offering. In addition, rules require that, subject to specified exceptions, each member of a listed company's audit, compensation, and nominating and corporate governance committees be independent. Under these rules, a director will only qualify as an "independent director" if, in the opinion of that company's board of directors, that person does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

Audit committee members must also satisfy the independence criteria set forth in Rule 10A-3 under the Exchange Act. In order to be considered independent for purposes of Rule 10A-3, a member of an audit committee of a listed company may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee: (i) accept, directly or indirectly, any consulting, advisory, or other compensatory fee from the listed company or any of its subsidiaries; or (ii) be an affiliated person of the listed company or any of its subsidiaries. We intend to satisfy the audit committee independence requirements of Rule 10A-3 as of the closing of this offering.

In connection with this offering, our board of directors has undertaken a review of the independence of each director and considered whether each director has a material relationship with us that could compromise his or her ability to exercise independent judgment in carrying out his or her responsibilities. As a result of this review, our board of directors determined that Frederic Moll, Antal Desai, Amy Dodrill, Taylor Harris, Thomas Krummel and Colby Wood are "independent directors" as defined under the applicable rules and regulations of the SEC and the listing requirements and rules of the Nasdaq Global Market, representing six of our seven directors. In making these determinations, our board of directors reviewed and discussed information provided by the directors and us with regard to each director's business and personal activities and current and prior relationships as they may relate to us and our management, including the beneficial ownership of our capital stock by each non-employee director and any transactions involving them described in the section titled "Certain Relationships and Related Party Transactions."

Committees of the Board of Directors

Upon consummation of this offering, our board of directors will have the following committees: the audit committee, the compensation committee and the nominating and corporate governance committee. From time to time, our board of directors may also establish any other committees that it deems necessary or desirable.

***Audit Committee*.** Upon consummation of this offering, we expect to have an audit committee consisting of Mr. Harris, as chair and Ms. Dodrill and Mr. Wood. Rule 10A-3 of the Exchange Act requires us to have one independent audit committee member upon the listing of our common stock, a majority of independent directors on our audit committee within 90 days of the effective date of this registration statement and an audit committee composed entirely of independent directors within one year of the effective date of this registration statement. qualifies as our "audit committee financial expert" within the meaning of regulations adopted by the SEC. The audit committee appoints and reviews the qualifications and independence of our independent registered public accounting firm, prepares compensation committee reports to be included in proxy statements filed under SEC rules and reviews the scope of audit and non-audit assignments and related fees, the results of the annual audit, accounting principles used in financial reporting, internal auditing procedures, the adequacy of our internal control procedures, the quality and integrity of our financial statements and investigations into matters related to audit functions. The audit committee is also responsible for overseeing risk management on behalf of our board of directors. See "—Risk Oversight."

***Compensation Committee*.** Upon consummation of this offering, we expect to have a compensation committee consisting of Dr. Krummel, as chair and Mr. Desai and Ms. Dodrill. The principal responsibilities of the compensation committee are to review and set or make recommendations to our board of directors regarding executive and director compensation, review and approve or make recommendations to our board of directors regarding our incentive compensation and equity-based plans and arrangements, and appoint and oversee any compensation consultants.

Nominating and Corporate Governance Committee. Upon the consummation of this offering, we expect to have a nominating and corporate governance committee consisting of Dr. Moll, as chair and Mr. Desai and Mr. Wood. The nominating and corporate governance committee assists our board of directors in identifying individuals qualified to become board members, consistent with criteria approved by our board of directors, makes recommendations for nominees for committees, oversees the evaluation of the board of directors and management and develops, recommends to the board of directors and reviews our corporate governance principles.

Risk Oversight

Our board of directors has extensive involvement in the oversight of risk management related to us and our business and accomplishes this oversight primarily through the audit committee. To that end, our audit committee will meet quarterly with our Chief Financial Officer and our independent auditors where it will receive regular updates regarding our management's assessment of risk exposures including liquidity, credit and operational risks and the process in place to monitor such risks and review results of operations, financial reporting and assessments of internal controls over financial reporting.

Code of Ethics

Prior to the consummation of this offering, we intend to adopt a code of ethics applicable to all of our directors, officers (including our principal executive officer, principal financial officer and principal accounting officer) and employees. Our code of ethics will be available on our website at www.procept-biorobotics.com under Investor Relations. Our code of ethics will be a "code of ethics" as defined in Item 406(b) of Regulation S-K. In the event that we amend or waive certain provisions of our code of ethics applicable to our principal executive officer, principal financial officer or principal accounting officer that requires disclosure under applicable SEC rules, we intend to disclose the same on our website. The information contained on, or that can be accessed through, our website is not incorporated by reference into, and is not a part of, this prospectus or the registration statement of which this prospectus forms a part. We have included our website in this prospectus solely as an inactive textual reference. Investors should not rely on any such information in deciding whether to purchase our common stock.

Compensation Committee Interlocks and Insider Participation

None of our executive officers serves, or in the past year has served, as a member of the board of directors or compensation committee (or other committee performing equivalent functions) of any entity that has one or more executive officers serving on our board of directors or compensation committee. No interlocking relationship exists between any member of our compensation committee (or other committee performing equivalent functions) and any executive, member of the board of directors or member of the compensation committee (or other committee performing equivalent functions) and of any other company.

EXECUTIVE COMPENSATION

This section discusses the material components of the executive compensation program for our executive officers who are named in the "2020 Summary Compensation Table" below. In 2020, our "named executive officers" and their positions were as follows:

- Reza Zadno, Ph.D., President and Chief Executive Officer;
- Kevin Waters, Senior Vice President, Chief Financial Officer;
- Hisham Shiblaq, Senior Vice President, Global Commercialization; and
- Eric Reuter, Advisor.

Following the departure of our prior chief executive officer in 2019, Mr. Reuter served as our principal executive officer from September 2019 until February 2020, when Dr. Zadno joined our company.

This discussion may contain forward-looking statements that are based on our current plans, considerations, expectations and determinations regarding future compensation programs. Actual compensation programs that we adopt following the completion of this offering may differ materially from the currently planned programs summarized in this discussion.

2020 Summary Compensation Table

The following table sets forth information concerning the compensation of our named executive officers for the year ended December 31, 2020.

Name and Principal Position	Year	Salary ($)	Bonus ($)	Option Awards ($)[2]	Non-Equity Incentive Plan Compensation ($)	All Other Compensation ($)	Total ($)
Reza Zadno, Ph.D.[1] President and Chief Executive Officer	2020	435,417	—	2,902,634	217,384	—	3,555,435
Kevin Waters Senior Vice President, Chief Financial Officer	2020	388,130	22,000[3]	169,626	155,252	—	735,008
Hisham Shiblaq Senior Vice President, Commercial Operations	2020	310,500	—	131,770	139,725	—	581,995
Eric Reuter[6] Advisor	2020	30,000[4]	—	—	—	42,500[5]	72,500

(1) Dr. Zadno's employment commenced with us in February 2020; therefore, certain amounts for Dr. Zadno, such as base salary, reflect a partial year of service.
(2) Represents the grant date fair value of stock options to purchase shares of our common stock during the year ended December 31,2020 computed in accordance with Financial Accounting Standards Board, or FASB, ASC 718. See Note 8 to our consolidated financial statements for the year ended December 31, 2020 included elsewhere in this prospectus for a description of the assumptions used in valuing our stock options.
(3) Amount represents additional bonus payments to Mr. Waters in August 2020 and December 2020.
(4) Amount represents consulting fees received by Mr. Reuter for his services as our principal executive officer in 2020.
(5) Amount represents fees received by Mr. Reuter for services performed as a member of our board of directors.
(6) Mr. Reuter resigned from our board of directors on July 29, 2021.

Narrative to Summary Compensation Table

2020 Salaries

The named executive officers receive a base salary to compensate them for services rendered to our company. The base salary payable to each named executive officer is intended to provide a fixed component of compensation reflecting the executive's skill set, experience, role and responsibilities.

The annual base salaries for Dr. Zadno and Messrs. Waters and Shiblaq for 2020 were $475,000, $388,130 and $310,500, respectively. Mr. Reuter received a consulting fee of $30,000 for consulting services as our principal executive officer in 2020. The actual base salaries earned by our named executive officers for services in 2020 are set forth above in the Summary Compensation Table in the column entitled "Salary."

The 2021 annual base salaries for Dr. Zadno and Messrs. Waters and Shiblaq are $490,000, $388,130 and $350,000, respectively.

2020 Bonuses

Our named executive officers are eligible to earn cash bonuses based on the achievement of corporate performance measures for the applicable year. For 2020, Dr. Zadno and Messrs. Waters, and Shiblaq were eligible to receive a target bonus of up to 50%, 40% and 45%, respectively, of their base salaries.

For 2020, annual bonus payments were based in part on the achievement of pre-established objective performance goals, including operational goals, product development and strategy goals, production and innovation goals, and reimbursement, weighted 15%, 30%, 25% and 30%, respectively, of each executive's bonus opportunity. In 2020, we achieved all of the goals. Therefore, our board of directors determined that the corporate performance goals were attained at a level of 100%. The annual cash bonuses actually earned by each named executive officer for 2020 performance are set forth above in the Summary Compensation Table above in the column entitled "Non-Equity Incentive Plan Compensation.

We paid Mr. Waters additional $10,000 and $12,000 bonuses in August 2020 and December 2020, respectively.

Equity Compensation

We historically have used stock options as the primary incentive for long-term compensation to our employees (including our named executive officers) because they are able to profit from stock options only if our stock price increases relative to the stock option's exercise price, which generally is set at or above the fair market value of our common stock as of the applicable grant date. Generally, the stock options we grant vest in equal monthly installments over four years following a one-year cliff, subject to the employee's continued service with us as of the vesting date. The equity awards granted to our named executive officers in 2020 are described below.

We currently maintain the Amended and Restated 2008 Stock Plan, or the 2008 Plan, in order to help us attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to employees and consultants and to promote the success of our company's business. As noted above, we generally offer stock options to certain of our employees, including our named executive officers, and consultants as the long-term incentive component of our compensation program. For additional information about the 2008 Plan, please see the section titled "2008 Stock Plan" below. As mentioned below, in connection with the completion of this offering, no further awards will be granted under the 2008 Plan.

In connection with this offering, our board of directors will adopt, and our stockholders will approve, the 2021 Incentive Award Plan, or the 2021 Plan, in order to facilitate the grant of cash and equity incentives to directors, employees (including our named executive officers) and consultants of our company and our affiliates, and to enable us to obtain and retain services of these individuals, which we believe is essential to our long-term success. For additional information about the 2021 Plan, please see the section titled "2021 Incentive Award Plan" below.

2020 Stock Option Awards

The following table sets forth the stock options granted to our named executive officers in 2020:

Named Executive Officer	Options Granted
Reza Zadno, Ph.D.	6,370,425 (1)
Reza Zadno, Ph.D.	1,350,071 (2)
Kevin Waters	333,547 (2)
Hisham Shiblaq	300,000 (3)

(1) This option was granted in February 2020 and vests and becomes exercisable as to 25% of the shares subject to the option on the first anniversary of Dr. Zadno's start date with our company and as to the remaining shares in substantially equal monthly installments thereafter.
(2) These options were granted in August 2020 and each vests and becomes exercisable as to 6/48th of the shares underlying the options on the six month anniversary of the August 1, 2020 vesting commencement date and 1/48th each month thereafter.
(3) This option was granted in December 2020 and vests and becomes exercisable (i) as to 150,000 of the shares underlying the option, monthly over four years and (ii) as to the remaining 150,000 shares, over four years, with 25% of such shares vesting on the first anniversary of the grant date and the remaining shares vesting in substantially equal installments thereafter.

Other Elements of Compensation

Retirement Plans

We currently maintain a 401(k) retirement savings plan, or the 401(k) plan, for our employees, including our named executive officers, who satisfy certain eligibility requirements. Our named executive officers are eligible to participate in the 401(k) plan on the same terms as other full-time employees. The Internal Revenue Code of 1986, as amended, or the Code, allows eligible employees to defer a portion of their compensation, within prescribed limits, on a pre-tax basis through contributions to the 401(k) plan. We believe that providing a vehicle for tax-deferred retirement savings through our 401(k) plan adds to the overall desirability of our compensation package and further incentivizes our employees, including our named executive officers, in accordance with our compensation policies. We do not provide for matching contributions under the 401(k) plan.

Employee Benefits

All of our full-time employees, including our named executive officers, are eligible to participate in our health and welfare plans, including:

- medical, dental and vision benefits;
- medical and dependent care flexible spending accounts;
- short-term and long-term disability insurance; and
- life insurance.

We believe the benefits described above are necessary and appropriate to provide a competitive compensation package to our named executive officers.

No Tax Gross-Ups

We do not make gross-up payments to cover our named executive officers' personal income taxes that may pertain to any of the compensation or benefits paid or provided by our company.

Outstanding Equity Awards at Fiscal Year-End

The following table summarizes the number of shares of common stock underlying outstanding equity incentive plan awards for each named executive officer as of December 31, 2020. Each equity award listed in the following table was granted under the 2008 Plan and, with respect to Dr. Zadno and Messrs. Waters and Shiblaq, will vest in

full upon a termination of employment either without cause or for good reason, in either case, within 12 months following a change in control.

		Option Awards			
Name	Grant Date	Number of Securities Underlying Unexercised Options Exercisable (#)	Number of Securities Underlying Unexercised Options Unexercisable (#)	Option Exercise Price ($)	Option Expiration Date
Reza Zadno, Ph.D.	2/20/2020[1]	—	6,370,425	0.92	2/19/2030
	8/10/2020[2]	—	1,350,071	1.09	8/9/2030
Kevin Waters	10/23/2018[1]	669,859	566,804	0.95	10/22/2028
	12/12/2019[3]	84,301	252,906	0.96	12/11/2029
	8/10/2020[2]	—	333,547	1.09	8/9/2030
Hisham Shiblaq	4/5/2019[4]	410,614	488,828	0.96	4/4/2029
	12/16/2020[5]	—	300,000	1.09	12/15/2030
Eric Reuter[6]	9/18/2015	127,061	—	0.28	9/17/2025
	4/26/2018[3]	83,333	41,667	0.95	4/25/2028

(1) These options vest and become exercisable as to 25% of the shares subject to the option on the first anniversary of the vesting commencement date and as to 1/48th of the shares each month thereafter.
(2) These options vest and becomes exercisable as to 6/48th of the shares subject to the option on the six month anniversary of the vesting commencement date and as to 1/48th each month thereafter.
(3) These options vest and become exercisable with respect to 1/48th of the shares subject to the option on each monthly anniversary of the vesting commencement date.
(4) This option vests and becomes exercisable as to 10/46th of the shares subject to the option on the ten-month anniversary of the vesting commencement date and as to 1/46th each month thereafter.
(5) 150,000 shares underlying this option vest and become exercisable as to 25% of such shares subject to the option on the first anniversary of the vesting commencement date and as to 1/48th of the remainder of such shares each month thereafter. The remaining 150,000 shares subject to this option vest and become exercisable with respect to 1/48th of such shares on each monthly anniversary of the vesting commencement date.
(6) Mr. Reuter resigned from our board of directors on July 29, 2021.

Executive Compensation Arrangements

Offer Letters with Reza Zadno, Kevin Waters, and Hisham Shiblaq

We have entered into employment offer letters with Reza Zadno, Ph. D., Kevin Waters, and Hisham Shiblaq, which were entered into in January 2020, August 2018, and March 2019, respectively.

Pursuant to the offer letters, each of Dr. Zadno and Messrs. Waters, and Shiblaq is entitled to receive a base salary of $475,000, $375,000, and $300,000, respectively and is eligible to receive an annual discretionary bonus, expressed as a target percentage of their base salary (as determined by our board of directors in its sole discretion), subject to the executive's continued employment through the bonus payment date. The 2021 annual base salaries for Dr. Zadno and Messrs. Waters and Shiblaq are $490,000, $388,130 and $350,000, respectively. Pursuant to the offer letters, the target bonuses for Dr. Zadno and Messrs. Waters and Shiblaq are 50%, 35% and 45%, respectively. In addition, each is eligible to participate in the health, welfare, retirement, vacation and other employee benefit plans, practices, policies and programs generally available to similarly situated employees.

Pursuant to the terms of the applicable executive's employment agreement, we granted each executive an option to purchase shares of our common stock (6,370,425 shares for Dr. Zadno, 1,236,663 shares for Mr. Waters, and 899,442 shares for Mr. Shiblaq) in January 2020, August 2018, and March 2019. Further, the offer letters with Mr. Waters and Mr. Shiblaq provide for the opportunity to earn an option to purchase up to an additional 206,111 and 149,907 shares of our common stock by the end of years 2019 and 2020 and 2020 and 2021, respectively, each of which has been granted.

Mr. Waters's offer letter also provides for a severance protection, which was superseded by his Change of Control and Severance Agreement described below.

Each of Dr. Zadno and Messrs. Waters and Shiblaq entered into our standard employee confidential information and assignment agreement as a condition of employment.

Change of Control and Severance Agreement with Reza Zadno, Ph. D. We are party to a change of control and severance agreement with Dr. Zadno entered into in February 2020.

Pursuant to the change in control and severance agreement, if Dr. Zadno's employment is terminated by us without "cause" or by the executive for "good reason" within 12 months following a "change of control" (each, as defined in the executive's change of control and severance agreement), he will receive the following severance payments and benefits: (i) continued payments of base salary for 24 months; (ii) payment of 150% of his target annual cash bonus for the year in which his termination occurs; (iii) 100% accelerated vesting and exercisability of all outstanding unvested stock awards then held by him; and (iv) COBRA continuation payments for up to 18 months. If Dr. Zadno's employment is terminated by us without "cause" or by the executive for "good reason" not within the change in control period described above, he will receive the following severance payments and benefits: (a) continued payment of base salary for 12 months; and (b) COBRA continuation payments for up to 12 months.

The severance payments and benefits described above are subject to the executive's timely execution and non-revocation of a release of claims in our favor.

Change of Control and Severance Agreement with Kevin Waters and Hisham Shiblaq. We are party to change of control and severance agreement with Kevin Waters and Hisham Shiblaq, each of which was originally entered into in October 2018 and March 2019, respectively, and amended in January 2020.

These agreements provide for the same terms as Dr. Zadno's agreement described above, except if Messrs. Waters's or Shiblaq's employment is terminated by us without "cause" or by the executive for "good reason" within 12 months following a "change of control," the executive will receive the following severance payments and benefits: (i) continued payments of base salary for 18 months or 12 months, respectively; (ii) payment of 150% or 100% of the executive's target annual cash bonus for the year in which his termination occurs, respectively; (iii) 100% accelerated vesting and exercisability of all outstanding unvested stock awards then held by the applicable executive; and (iv) COBRA continuation payments for up to 18 months or 12 months, respectively. If Messrs. Waters's or Shiblaq's employment is terminated by us without "cause" or by the executive for "good reason" not within the change in control period described above, he will receive continued payment of base salary for six months.

Amended and Restated Change of Control and Severance Agreements. In connection with this offering, we expect to enter into amended and restated change of control severance agreements with each of our named executive officers to clarify that each is eligible to receive the enhanced change in control severance described above if his qualifying termination occurs in the three month period preceding a change of control (in addition to on or within 12 months following a change of control). In addition, the agreements will provide that Messrs. Waters and Shiblaq will be eligible for up to six months COBRA continuation payments upon a qualifying termination of employment outside of the change of control context.

2008 Stock Plan

We maintain the 2008 Plan. A total of 49,471,170 shares of our common stock are reserved for issuance under the 2008 Plan. The 2008 Plan will terminate on June 10, 2031, unless earlier terminated by our board of directors. Following the effectiveness of the 2021 Plan, the 2008 Plan will terminate, and we will not make any further awards under the 2008 Plan. However, any outstanding awards granted under the 2008 Plan will remain outstanding, subject to the terms of the 2008 Plan and applicable award agreements.

Eligibility and Administration. Employees and consultants employed or engaged by us or our affiliates are eligible to receive awards under the 2008 Plan. The 2008 Plan is administered by our board of directors, which may delegate its duties and responsibilities as it deems appropriate. The board of directors has the authority to determine

who will be granted awards, what type of awards will be granted and in what amount, when and how awards will be granted, the provisions of each award, and the fair market value applicable to an award; to construe and interpret the 2008 Plan; to accelerate the vesting of any award or waive forfeiture restrictions of any award; to approve the form of agreements for use under the 2008 Plan; to modify grants of awards to non-U.S. participants as necessary to recognize differences in local law, tax policies or customs; and to make all other determinations and take all other actions it deems necessary or expedient to promote the best interests of our company and that are not in conflict with the terms of the 2008 Plan.

Awards. The 2008 Plan provides for the grant of nonqualified stock options, incentive stock options, and restricted stock awards. Each award under the 2008 Plan is evidenced by a separate agreement between our company and the participant, which details all terms and conditions of the awards, including any applicable vesting and payment terms and post-termination exercise limitations. The following types of awards have been granted under the 2008 Plan:

- **Nonqualified Stock Options**. Nonqualified stock options provide for the purchase of shares of our common stock in the future at an exercise price set on the grant date. The exercise price of a stock option is fixed by the board of directors and may not be less than 100% of the fair market value of the underlying share on the date of grant. The term of a stock option is determined by our board of directors, but may not exceed ten years. Vesting conditions determined by our board of directors may apply to stock options and may include the occurrence of certain events, the passage of a specified period of time, achievement by us of certain performance goals, and/or other fulfillment of certain conditions.

- **Incentive Stock Options**. Incentive stock options are designed to comply with the provisions of the Code and are subject to specified restrictions contained in the Code applicable to incentive stock options. Among such restrictions, incentive stock options must have an exercise price of not less than the fair market value of a share of common stock on the date of grant, may only be granted to employees, must expire within a specified period of time following the participant's termination of employment, and must be exercised within ten years after the date of grant. In the case of an incentive stock option granted to an individual who owns (or is deemed to own) more than 10% of the total combined voting power of all classes of our capital stock on the date of grant, the exercise price must be at least 110% of the fair market value of a share of common stock on the date of grant and the incentive stock option must expire on the fifth anniversary of the date of its grant.

Certain Transactions. In the event of certain transactions and events affecting our common stock, such as stock dividends, stock splits, or a combination or other change in shares of our common stock, our board of directors shall make appropriate and proportionate adjustments to the number and type of shares subject to the 2008 Plan, the number and type of shares that may be issued pursuant to incentive stock options, and the number, type and price per share of stock subject to outstanding awards granted under the 2008 Plan. In the event of a dissolution or liquidation, all outstanding awards will terminate, unless otherwise determined by the board of directors. In the event of a corporate transaction, the board of directors may take one or more of the following actions: (i) arrange for the assumption or substitution of, or adjustment to, each outstanding award by the successor corporation; (ii) accelerate the vesting and exercisability of any award; and (iii) cancel any award to the extent not vested or exercised prior to the corporate transaction in exchange for cash consideration.

Plan Amendment and Termination. Our board of directors may suspend or terminate the 2008 Plan or any portion thereof at any time and may amend it from time to time in such respects as our board of directors may deem necessary or advisable, provided that no such amendment shall be made without stockholder approval to the extent such approval is required by applicable law. Further, no such amendment, suspension or termination shall impair the rights of participants under outstanding awards without the consent of the affected participants. As described above, the 2008 Plan will terminate as of the effective date of the 2021 Plan.

2021 Incentive Award Plan

In connection with this offering, our board of directors expects to adopt, subject to approval by our stockholders, the 2021 Plan, under which we may grant cash and equity incentive awards to eligible service

providers in order to attract, motivate and retain the talent for which we compete. The material terms of the 2021 Plan, currently contemplated, are summarized below.

Eligibility and Administration. Our employees, consultants and directors, and employees, consultants and directors of our subsidiaries, will be eligible to receive awards under the 2021 Plan. Following this offering, the 2021 Plan will be administered by our board of directors with respect to awards to non-employee directors and by our compensation committee with respect to other participants, each of which may delegate its duties and responsibilities to committees of our directors and/or officers (referred to collectively as the plan administrator below), subject to certain limitations that may be imposed under Section 16 of the Securities Exchange Act of 1934, as amended, or the Exchange Act, and/or stock exchange rules, as applicable. The plan administrator will have the authority to make all determinations and interpretations under, prescribe all forms for use with, and adopt rules for the administration of, the 2021 Plan, subject to its express terms and conditions. The plan administrator will also set the terms and conditions of all awards under the 2021 Plan, including any vesting and vesting acceleration conditions.

Limitation on Awards and Shares Available. An aggregate of approximately 8% of the shares of our common stock outstanding as of the closing of this offering initially will be available for issuance under awards granted pursuant to the 2021 Plan, which shares may be authorized but unissued shares, treasury shares or shares purchased in the open market. Notwithstanding anything to the contrary in the 2021 Plan, no more than shares of our common stock may be issued pursuant to the exercise of incentive stock options under the 2021 Plan.

The number of shares available for issuance will be increased by an annual increase on the first day of each calendar year beginning January 1, 2022 and ending on and including January 1, 2031, equal to the lesser of (i) 5% of the aggregate number of shares of our common stock outstanding on the final day of the immediately preceding calendar year and (ii) such smaller number of shares as is determined by our board of directors.

If an award under the 2021 Plan expires, lapses or is terminated, exchanged for or settled for cash, surrendered, repurchased, cancelled without having been fully exercised or forfeited, any shares subject to such award may, to the extent of such forfeiture, expiration or cash settlement, be used again for new grants under the 2021 Plan. Further, shares delivered to us to satisfy the applicable exercise or purchase price of an award under the 2021 Plan and/or to satisfy any applicable tax withholding obligations (including shares retained by us from the award under the 2021 Plan being exercised or purchased and/or creating the tax obligation) will become or again be available for award grants under the 2021 Plan. The payment of dividend equivalents in cash in conjunction with any awards under the 2021 Plan will not reduce the shares available for grant under the 2021 Plan. However, the following shares may not be used again for grant under the 2021 Plan: (i) shares subject to stock appreciation rights, or SARs, that are not issued in connection with the stock settlement of the SAR on exercise, and (ii) shares purchased on the open market with the cash proceeds from the exercise of options.

Awards granted under the 2021 Plan upon the assumption of, or in substitution for, awards authorized or outstanding under a qualifying equity plan maintained by an entity with which we enter into a merger or similar corporate transaction will not reduce the shares available for grant under the 2021 Plan. The 2021 Plan provides that, commencing with the calendar year following the calendar year in which the effective date of the 2021 Plan occurs, the sum of any cash compensation and the aggregate grant date fair value (determined as of the date of the grant under ASC Topic 718, or any successor thereto) of all awards granted to a non-employee director as compensation for services as a non-employee director during any calendar year may not exceed the amount equal to $500,000 (increased to $750,000 in the year in which a non-employee director initially is appointed or elected to the Board).

Awards. The 2021 Plan provides for the grant of stock options, including incentive stock options, or ISOs, and nonqualified stock options, or NSOs, restricted stock, dividend equivalents, RSUs, stock appreciation rights, or SARs, and other stock or cash awards. Certain awards under the 2021 Plan may constitute or provide for a deferral of compensation, subject to Section 409A of the Code, which may impose additional requirements on the terms and conditions of such awards. All awards under the 2021 Plan will be set forth in award agreements, which will detail all terms and conditions of the awards, including any applicable vesting and payment terms and post-termination

exercise limitations. Awards other than cash awards generally will be settled in shares of our common stock, but the plan administrator may provide for cash settlement of any award. A brief description of each award type follows.

- **Stock Options**. Stock options provide for the purchase of shares of our common stock in the future at an exercise price set on the grant date. ISOs, by contrast to NSOs, may provide tax deferral beyond exercise and favorable capital gains tax treatment to their holders if certain holding period and other requirements of the Code are satisfied. The exercise price of a stock option may not be less than 100% of the fair market value of the underlying share on the date of grant (or 110% in the case of ISOs granted to certain significant stockholders), except with respect to certain substitute options granted in connection with a corporate transaction. The term of a stock option may not be longer than ten years (or five years in the case of ISOs granted to certain significant stockholders). Vesting conditions determined by the plan administrator may apply to stock options and may include continued service, performance and/or other conditions.

- **SARs**. SARs entitle their holder, upon exercise, to receive from us an amount equal to the appreciation of the shares subject to the award between the grant date and the exercise date. The exercise price of a SAR may not be less than 100% of the fair market value of the underlying share on the date of grant (except with respect to certain substitute SARs granted in connection with a corporate transaction) and the term of a SAR may not be longer than ten years. Vesting conditions determined by the plan administrator may apply to SARs and may include continued service, performance and/or other conditions.

- **Restricted Stock and RSUs**. Restricted stock is an award of nontransferable shares of our common stock that remain forfeitable unless and until specified conditions are met, and which may be subject to a purchase price. RSUs are contractual promises to deliver shares of our common stock in the future, which may also remain forfeitable unless and until specified conditions are met, and may be accompanied by the right to receive the equivalent value of dividends paid on shares of our common stock prior to the delivery of the underlying shares. Settlement of RSUs may be deferred under the terms of the award or at the election of the participant, if the plan administrator permits such a deferral. Conditions applicable to restricted stock and RSUs may be based on continuing service, the attainment of performance goals and/or such other conditions as the plan administrator may determine.

- **Other Stock or Cash-Based Awards**. Other stock or cash-based awards of cash, fully vested shares of our common stock and other awards valued wholly or partially by referring to, or otherwise based on, shares of our common stock may be granted under the 2021 Plan. Other stock or cash-based awards may be granted to participants and may also be available as a payment form in the settlement of other awards, as standalone payments and as payment in lieu of base salary, bonus, fees or other cash compensation otherwise payable to any individual who is eligible to receive awards.

- **Dividend Equivalent**s. Dividend equivalents represent the right to receive the equivalent value of dividends paid on shares of our common stock and may be granted alone or in tandem with awards other than stock options or SARs. Dividend equivalents are credited as of dividend record dates during the period between the date an award is granted and the date such award vests, is exercised, is distributed or expires, as determined by the plan administrator.

Performance Awards. Performance awards include any of the foregoing awards that are granted subject to vesting and/or payment based on the attainment of specified performance goals or other criteria the plan administrator may determine, which may or may not be objectively determinable. Performance criteria upon which performance goals are established by the plan administrator may include but are not limited to: (i) net earnings (either before or after one or more of the following: (a) interest, (b) taxes, (c) depreciation, (d) amortization and (e) non-cash equity-based compensation expense); (ii) gross or net sales or revenue; (iii) net income (either before or after taxes); (iv) adjusted net income; (v) operating earnings or profit; (vi) cash flow (including, but not limited to, operating cash flow and free cash flow); (vii) return on assets; (viii) return on capital; (ix) return on stockholders' equity; (x) total stockholder return; (xi) return on sales; (xii) gross or net profit or operating margin; (xiii) costs; (xiv) funds from operations; (xv) expenses; (xvi) working capital; (xvii) earnings per share; (xviii) adjusted earnings per share; (xix) price per share of our common stock; (xx) regulatory achievements or compliance; (xxi) implementation or completion of critical projects; (xxii) market share; (xxiii) economic value; (xxiv) debt levels or

reduction; (xxv) sales-related goals; (xxvi) comparisons with other stock market indices; (xxvii) operating efficiency; (xxviii) employee satisfaction; (xxix) financing and other capital raising transactions; (xxx) recruiting and maintaining personnel; (xxxi) year-end cash; and (xxxii) human capital management goals or environmental, social and governance goals, any of which may be measured either in absolute terms for us or any operating unit of our company or as compared to any incremental increase or decrease or as compared to results of a peer group or to market performance indicators or indices.

Certain Transactions. The plan administrator has broad discretion to take action under the 2021 Plan, as well as make adjustments to the terms and conditions of existing and future awards, to prevent the dilution or enlargement of intended benefits and facilitate necessary or desirable changes in the event of certain transactions and events affecting our common stock, such as stock dividends, stock splits, mergers, acquisitions, consolidations and other corporate transactions. In addition, in the event of certain non-reciprocal transactions with our stockholders known as "equity restructurings," the plan administrator will make equitable adjustments to the 2021 Plan and outstanding awards. In the event of a change in control of our company (as defined in the 2021 Plan), to the extent that the surviving entity declines to continue, convert, assume or replace outstanding awards, then all such awards will become fully vested and exercisable in connection with the transaction. Upon or in anticipation of a change of control, the plan administrator may cause any outstanding awards to terminate at a specified time in the future and give the participant the right to exercise such awards during a period of time determined by the plan administrator in its sole discretion. Individual award agreements may provide for additional accelerated vesting and payment provisions.

Foreign Participants, Claw-Back Provisions, Transferability, and Participant Payments. The plan administrator may modify award terms, establish subplans and/or adjust other terms and conditions of awards, subject to the share limits described above, in order to facilitate grants of awards subject to the laws and/or stock exchange rules of countries outside of the United States. All awards will be subject to the provisions of any claw- back policy implemented by our company to the extent set forth in such claw-back policy and/or in the applicable award agreement. With limited exceptions for estate planning, domestic relations orders, certain beneficiary designations and the laws of descent and distribution, awards under the 2021 Plan are generally non-transferable prior to vesting, and are exercisable only by the participant. With regard to tax withholding, exercise price and purchase price obligations arising in connection with awards under the 2021 Plan, the plan administrator may, in its discretion, accept cash or check, shares of our common stock that meet specified conditions, a "market sell order" or such other consideration as it deems suitable.

Plan Amendment and Termination. Our board of directors may amend or terminate the 2021 Plan at any time; however, except in connection with certain changes in our capital structure, stockholder approval will be required for any amendment that increases the number of shares available under the 2021 Plan. Stockholder approval is not required for any amendment that "reprices" any stock option or SAR, or cancels any stock option or SAR in exchange for cash or another award when the option or SAR price per share exceeds the fair market value of the underlying shares.

2021 Employee Stock Purchase Plan

In connection with this offering, our board of directors expects to adopt, subject to stockholder approval, the 2021 Employee Stock Purchase Plan, or ESPP. The material terms of the ESPP, as currently contemplated, are summarized below.

Shares Available; Administration. We expect a total of 1% of the aggregate number of shares of our common stock outstanding as of the closing of this offering initially will be reserved for issuance under our ESPP. In addition, we expect that the number of shares available for issuance under the ESPP will be annually increased on January 1 of each calendar year beginning in 2022 and ending in 2031, by an amount equal to the lesser of: (i) 1% of the aggregate number of shares of our common stock outstanding on the final day of the immediately preceding calendar year and (ii) such smaller number of shares as is determined by our board of directors. In no event will more than shares of our common stock be available for issuance under the ESPP.

Our board of directors or a committee designated by our board of directors will have authority to interpret the terms of the ESPP and determine eligibility of participants. The compensation committee will be the administrator of the ESPP.

Eligibility. The plan administrator may designate certain of our subsidiaries as participating "designated subsidiaries" in the ESPP and may change these designations from time to time. Employees of our company and our designated subsidiaries are eligible to participate in the ESPP if they meet the eligibility requirements under the ESPP established from time to time by the plan administrator. However, an employee may not be granted rights to purchase stock under the ESPP if such employee, immediately after the grant, would own (directly or through attribution) stock possessing 5% or more of the total combined voting power or value of all classes of our common or other class of stock.

If the grant of a purchase right under the ESPP to any eligible employee who is a citizen or resident of a foreign jurisdiction would be prohibited under the laws of such foreign jurisdiction or the grant of a purchase right to such employee in compliance with the laws of such foreign jurisdiction would cause the ESPP to violate the requirements of Section 423 of the Code, as determined by the plan administrator in its sole discretion, such employee will not be permitted to participate in the ESPP.

Eligible employees become participants in the ESPP by enrolling and authorizing payroll deductions by the deadline established by the plan administrator prior to the relevant offering date. Directors who are not employees, as well as consultants, are not eligible to participate. Employees who choose to not participate, or are not eligible to participate at the start of an offering period but who become eligible thereafter, may enroll in any subsequent offering period.

Participation in an Offering. We intend for the ESPP to qualify under Section 423 of the Code and stock will be offered under the ESPP during offering periods. The length of offering periods under the ESPP will be determined by the plan administrator and may be up to 27 months long. Employee payroll deductions will be used to purchase shares on each purchase date during an offering period. The number of purchase periods within, and purchase dates during, each offering period will be established by the plan administrator. Offering periods under the ESPP will commence when determined by the plan administrator. The plan administrator may, in its discretion, modify the terms of future offering periods.

The ESPP will permit participants to purchase our common stock through payroll deductions of up to 15% of their eligible compensation, unless otherwise determined by the plan administrator, which will include a participant's gross base compensation for services to us, including overtime payments, periodic bonuses, and sales commissions, and excluding one-time bonuses, expense reimbursements, fringe benefits and other special payments. The plan administrator will establish a maximum number of shares that may be purchased by a participant during any offering period or purchase period, which, in the absence of a contrary designation, will be shares for an offering period and/or a purchase period. In addition, no employee will be permitted to accrue the right to purchase stock under the ESPP at a rate in excess of $25,000 worth of shares during any calendar year during which such a purchase right is outstanding (based on the fair market value per share of our common stock as of the first day of the offering period).

On the first trading day of each offering period, each participant automatically will be granted an option to purchase shares of our common stock. The option will be exercised on the applicable purchase date(s) during the offering period, to the extent of the payroll deductions accumulated during the applicable purchase period. The purchase price of the shares, in the absence of a contrary determination by the plan administrator, will be 85% of the lower of the fair market value of our common stock on the first trading day of the offering period or on the applicable purchase date, which will be the final trading day of the applicable purchase period.

Participants may voluntarily end their participation in the ESPP at any time at least two weeks prior to the end of the applicable offering period (or such longer or shorter period specified by the plan administrator), and will be paid their accrued payroll deductions that have not yet been used to purchase shares of common stock. Participation ends automatically upon a participant's termination of employment.

Transferability. A participant may not transfer rights granted under the ESPP other than by will, the laws of descent and distribution or as otherwise provided in the ESPP.

Certain Transactions. In the event of certain transactions or events affecting our common stock, such as any stock dividend or other distribution, change in control, reorganization, merger, consolidation or other corporate transaction, the plan administrator will make equitable adjustments to the ESPP and outstanding rights. In addition, in the event of the foregoing transactions or events or certain significant transactions, including a change in control, the plan administrator may provide for (i) either the replacement of outstanding rights with other rights or property or termination of outstanding rights in exchange for cash, (ii) the assumption or substitution of outstanding rights by the successor or survivor corporation or parent or subsidiary thereof, (iii) the adjustment in the number and type of shares of stock subject to outstanding rights, (iv) the use of participants' accumulated payroll deductions to purchase stock on a new purchase date prior to the next scheduled purchase date and termination of any rights under ongoing offering periods or (v) the termination of all outstanding rights. Under the ESPP, a change in control has the same definition as given to such term in the 2021 Plan.

Plan Amendment; Termination. The plan administrator may amend, suspend or terminate the ESPP at any time. However, stockholder approval of any amendment to the ESPP must be obtained for any amendment which increases the aggregate number or changes the type of shares that may be sold pursuant to rights under the ESPP, changes the ESPP in any manner that would be considered the adoption of a new plan within the meaning of Treasury regulation Section 1.423-2(c)(4), or changes the ESPP in any manner that would cause the ESPP to no longer be an employee stock purchase plan within the meaning of Section 423(b) of the Code.

Non- Employee Director Compensation

The following table summarizes compensation received by our non-employee directors during the year ended December 31, 2020. Dr. Zadno, our President and Chief Executive Officer, is also a member of our board of directors, but does not receive any additional compensation for his service as a director in addition to the compensation he receives as an employee. See the section titled "Executive Compensation" for more information. In addition to serving on our board of directors, Mr. Reuter served as our Advisor from September 2019 to February 2020 and received additional compensation for such service. See the section titled "Executive Compensation" for more information.

In 2020, each non-employee director received an annual cash retainer equal to $35,000. In addition, Dr. Perkins received an annual retainer of $12,500 for his services as Chairman of our board of directors, and Messrs. Reuter and Wood, Dr. Krummel received an annual retainer of $7,500 for their services as committee chairs (pro-rated for any partial year of service as a committee chair). We have reimbursed, and will continue to reimburse, any non-employee director for his or her reasonable out-of-pocket expenses incurred in attending board of director and committee meetings.

Name	Fees Earned or Paid in Cash ($)	Option Awards ($)[7]	Total ($)
Rodney Perkins, M.D.	47,500	—	47,500
Antal Desai	—	—	—
Taylor Harris[1]	1,848	199,146	200,994
Thomas Krummel, M.D.	42,500	—	42,500
Fred Moll, M.D.	35,000	—	35,000
Eric Reuter [2][3]	—	—	—
Colby Wood[4]	42,194	—	42,194
Noam Krantz[5]	—	—	—
William Facteau[6]	41,666	—	41,666

(1) Mr. Harris was elected to our board of directors in December 2020. We paid Mr. Harris a pro-rata fee for his December 2020 board service.
(2) Compensation received by Mr. Reuter during the year ended December 31, 2020 is disclosed in the "Summary Compensation Table" above.
(3) Mr. Reuter resigned from our board of directors on July 29, 2021.

(4) Mr. Wood ceased service as chair of our Audit Committee in December 2020.
(5) Mr. Krantz resigned from our board of directors on June 25, 2021.
(6) Mr. Facteau resigned from our board of directors on October 30, 2020.
(7) Represents the grant date fair value of stock options to purchase shares of our common stock during the year ended December 31, 2020 computed in accordance with FASB ASC 718. See Note 8 to our consolidated financial statements for the year ended December 31, 2020 included elsewhere in this prospectus for a description of the assumptions used in valuing our stock options.

The table below shows the aggregate numbers of option awards (whether exercisable or unexercisable) held as of December 31, 2020 by each non-employee director who served in 2020.

Name	Options Outstanding at Fiscal Year End
Rodney Perkins, M.D.	689,150
Antal Desai	252,061
Taylor Harris	453,500
Thomas Krummel, M.D.	174,766
Fred Moll, M.D.	502,061
Eric Reuter[1]	—
Colby Wood	482,061
Noam Krantz	—
William Facteau	263,541

(1) The number of option awards held as of December 31, 2020 by Mr. Reuter is disclosed in the section titled "Outstanding Equity Awards at Fiscal Year End."

Post-IPO Director Compensation Program

In connection with this offering, we expect our board of directors to adopt and our stockholders to approve a nonemployee director compensation program, or the Director Compensation Program, which will become effective in connection with the completion of this offering. The Director Compensation Program will provide for annual retainer fees and long-term equity awards for certain of our non-employee directors, referred to herein as eligible directors. The material terms of the Director Compensation Program, as they currently are contemplated, are summarized below.

The Director Compensation Program will consist of the following components:

Cash Compensation

- Annual Retainer: $40,000
- Lead Independent Director Retainer: $40,000
- Annual Committee Chair Retainer:
- Audit: $20,000
- Compensation: $15,000
- Nominating and Governance: $10,000
- Annual Committee Member (Non-Chair) Retainer:
- Audit: $10,000
- Compensation: $7,500
- Nominating and Governance: $5,000

Annual cash retainers will be paid in quarterly installments in arrears and will be pro-rated for any partial calendar quarter of service.

Equity Compensation

a. *Initial Grant*: Each eligible director who is initially elected or appointed to serve on the Board after the effective date of this offering automatically will be granted, on the date on which such eligible director is appointed or elected to serve on the Board, an equity award with a grant-date fair value of approximately $200,000. These initial grants will vest in substantially equal installments on each of the first three anniversaries of the grant date, subject to the director's continued service through the applicable vesting date.

b. *Annual Grant*: An eligible director who is serving on our board of directors as of the date of the annual meeting of the Company's stockholders each calendar year (beginning with calendar year 2022) will be granted, on such annual meeting date, an equity award with a grant-date fair value of approximately $120,000. Each annual grant will vest in full on the earlier to occur of (A) the first anniversary of the applicable grant date and (B) the date of the next annual meeting following the grant date, subject to such eligible director's continued service through the applicable vesting date.

In addition, each Initial Grant and Annual Grant will vest in full upon a change in control of the Company (as defined in the 2021 Plan) if the eligible director will not become a member of the board of the Company or the ultimate parent of the Company as of immediately following such change in control.

Compensation under our Director Compensation Program will be subject to the annual limits on non-employee director compensation set forth in the 2021 Plan, as described in the section titled "Executive Compensation."

PRINCIPAL STOCKHOLDERS

The following table sets forth information regarding the beneficial ownership of our common stock as of , 2021, and as adjusted to reflect the sale of the shares of common stock offered by us in this offering for:

- each person or entity who is known by us to beneficially own more than 5% of our common stock;
- each of our directors and named executive officers; and
- all of our directors and executive officers as a group.

Information with respect to beneficial ownership has been furnished to us by each director, executive officer or stockholder listed in the table below, as the case may be. The amounts and percentages of our common stock beneficially owned are reported on the basis of rules of the SEC governing the determination of beneficial ownership of securities. Under these rules, a person is deemed to be a "beneficial owner" of a security if that person has or shares "voting power," which includes the power to vote or direct the voting of such security, or "investment power," which includes the power to dispose of or to direct the disposition of such security. A person is also deemed to be a beneficial owner of any securities of which that person has a right to acquire beneficial ownership within 60 days after , 2021. More than one person may be deemed to be a beneficial owner of the same securities.

Percentage of beneficial ownership prior to this offering is based on shares of common stock outstanding as of , 2021. Percentage of beneficial ownership after this offering is based on shares of common stock outstanding after giving effect to the sale by us of the shares of common stock offered hereby. In computing the number of shares beneficially owned by an individual or entity and the percentage ownership of that person, shares of common stock subject to options, warrants or other rights held by such person that are currently exercisable or that will become exercisable or will otherwise vest within 60 days of , 2021 are considered outstanding, although these shares are not considered outstanding for purposes of computing the percentage ownership of any other person.

Unless otherwise indicated below, to our knowledge, all persons listed below have sole voting and investment power with respect to their shares of common stock, except to the extent authority is shared by spouses under

applicable law. Unless otherwise indicated below, the address for each person or entity listed below is c/o PROCEPT BioRobotics Corporation, 900 Island Drive, Redwood City, California 94065.

Name of Beneficial Owner	Total Shares Beneficially Owned	Percentage of Shares Beneficially Owned	
		Before the Offering (%)	After the Offering (%)
5% Stockholders			
Entity Associated with CPMG, Inc.[1]			
Viking Global Opportunities Illiquid Investments Sub-Master LP[2]			
Entities Associated with Fidelity[3]			
Nikolai Aljuri, Ph.D.			
Named Executive Officers and Directors			
Reza Zadno, Ph.D.			
Kevin Waters			
Alaleh Nouri			
Hisham Shiblaq			
Frederic Moll, M.D.			
Antal Desai			
Amy Dodrill			
Taylor Harris			
Thomas Krummel M.D.			
Rodney Perkins M.D.			
Colby Wood			
All Executive Officers and Directors as a Group (13 individuals)			

* Represents beneficial ownership of less than 1% of our outstanding common stock. Represents beneficial ownership of less than 1% of our outstanding common stock.

(1) Consists of (i) shares of common stock, (ii) shares of common stock issuable upon conversion of Series D redeemable convertible preferred stock, (iii) shares of common stock issuable upon conversion of Series E redeemable convertible preferred stock, (iv) shares of common stock issuable upon conversion of Series F redeemable convertible preferred stock and (v) shares of common stock issuable upon conversion of Series G redeemable convertible preferred stock held by White Tailed Ptarmigan, LP. CPMG, Inc. is the general partner of White Tailed Ptarmigan, LP and has voting and investment control over the shares beneficially owned by White Tailed Ptarmigan, LP. Antal Desai, a member of our board of directors and a Partner of CPMG, Inc., along with Kent McGaughy, Jr., the sole shareholder and managing director of CPMG, Inc., may be deemed to share voting and investment power with respect to the shares beneficially owned by White Tailed Ptarmigan, LP. Each of Mr. Desai and Mr McGaughy, Jr. disclaims beneficial ownership of the shares beneficially owned by White Tailed Ptarmigan, LP except to the extent of any pecuniary interest therein. The business address of the entities referenced in this footnote is 2000 McKinney Ave, Suite 2125, Dallas, Texas 75201.

(2) Consists of shares held by Viking Global Opportunities Illiquid Investments Sub-Master LP (the "Viking Opportunities Fund"). The Viking Opportunities Fund has the authority to dispose of and vote the shares that will be directly owned by it, which power may be exercised by its general partner, Viking Global Opportunities Portfolio GP LLC ("Opportunities GP"), and by Viking Global Investors LP ("VGI"), which provides managerial services to Opportunities Fund. Andreas Halvorsen, David C. Ott and Rose Shabet, as Executive Committee members of Viking Global Partners LLC (the general partner of VGI) and Viking Global Opportunities GP LLC, the sole member of Opportunities GP, have shared authority to direct the voting and disposition of investments beneficially owned by VGI, Opportunities GP and the Viking Opportunities Fund. The address for each of the entities is c/o Viking Global Investors LP, 55 Railroad Avenue, Greenwich, CT 06830.

(3) Consists of (i) shares of common stock held by Fidelity Mt. Vernon Street Trust: Fidelity Series Growth Company Fund, (ii) shares of common stock held by Fidelity Mt. Vernon Street Trust: Fidelity Growth Company Fund, (iii) shares of common stock held by Fidelity Growth Company Commingled Pool, with Fidelity management Trust Company, as Trustee, (iv) shares of common stock held by Fidelity Mt. Vernon Street Trust: Fidelity Growth Company K6 Fund and (v) shares of common stock held by Fidelity Select Portfolios: Select Medical Technology and Devices Portfolio. These accounts are managed by direct or indirect subsidiaries of FMR LLC. Abigail P. Johnson is a Director, the Chairman, the Chief Executive Officer and the President of FMR LLC. Members of the Johnson family, including Abigail P. Johnson, are the predominant owners, directly or through trusts, of Series B voting common shares of FMR LLC, representing 49% of the voting power of FMR LLC. The Johnson family group and all other Series B shareholders have entered into a shareholders' voting agreement under which all Series B voting common shares will be voted in accordance with the majority vote of

Series B voting common shares. Accordingly, through their ownership of voting common shares and the execution of the shareholders' voting agreement, members of the Johnson family may be deemed, under the Investment Company Act of 1940, to form a controlling group with respect to FMR LLC. Neither FMR LLC nor Abigail P. Johnson has the sole power to vote or direct the voting of the shares owned directly by the various investment companies registered under the Investment Company Act ("Fidelity Funds") advised by Fidelity Management & Research Company ("FMR Co"), a wholly owned subsidiary of FMR LLC, which power resides with the Fidelity Funds' Boards of Trustees. Fidelity Management & Research Company carries out the voting of the shares under written guidelines established by the Fidelity Funds' Boards of Trustees. The business address of the entities referenced in this footnote is 140 Broadway, New York, NY 10005.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

The following is a description of transactions to which we were a participant since January 1, 2018 in which the amount involved exceeded or will exceed the lesser of $120,000 or one percent of the average of our total assets at year-end for the last two completed fiscal years, and in which any of our executive officers, directors or holders of more than 5% of any class of our voting securities, or an affiliate or immediate family member thereof, had or will have a direct or indirect material interest.

Series G Financing

In June 2021, we completed the sale of an aggregate of 21,125,882 shares of our Series G redeemable convertible preferred stock at a purchase price of $4.0235 per share for an aggregate purchase price of $85.0 million. Each share of our Series G redeemable convertible preferred stock will convert into shares of our common stock immediately prior to the closing of this offering in accordance with our certificate of incorporation.

The following table summarizes the Series G redeemable convertible preferred stock purchased by holders of more than 5% of our capital stock, our board of directors and any entities affiliated with our executive officers or a member of our board of directors.

Participants[1]	Shares of Series G Redeemable Convertible Preferred Stock	Aggregate Purchase Price (in thousands)
Viking Global Opportunities Illiquid Investments Sub-Master LP	540,252	$ 2,174
Entity Associated with CPMG, Inc.	1,292,977	$ 5,202
Frederic Moll	285,820	$ 1,150
Rodney Perkins M.D.[2]	537,241	$ 2,162
Entities Associated with Fidelity[3]	12,427,114	$ 50,000
Nikolai Aljuri, Ph.D.[4]	372,809	$ 1,500
Taylor Harris[5]	18,333	$ 74
Antal Desai[6]	19,495	$ 78

(1) Additional details regarding these stockholders and their equity holdings are provided in the section titled “Principal Stockholders.”
(2) Shares of Series G redeemable convertible preferred stock are held by The Perkins Family Revocable Trust dated February 28, 1986.
(3) Consists of (i) 515,197 shares of Series G redeemable convertible preferred stock held by Fidelity Mt. Vernon Street Trust: Fidelity Series Growth Company Fund, (ii) 2,461,674 shares of Series G redeemable convertible preferred stock held by Fidelity Mt. Vernon Street Trust: Fidelity Growth Company Fund, (iii) 2,715,902 shares of Series G redeemable convertible preferred stock held by Fidelity Growth Company Commingled Pool, (iv) 520,784 shares of Series G redeemable convertible preferred stock held by Fidelity Mt. Vernon Street Trust: Fidelity Growth Company K6 Fund and (v) 6,213,557 shares of Series G redeemable convertible preferred stock held by Fidelity Select Portfolios: Select Medical Technology and Devices Portfolio.
(4) Shares held by the Aljuri Family Trust u/a/d 8-22-2012.
(5) Shares held by The Harris Trust Dated 3/10/2016.
(6) Includes (i) 883 shares of Series G redeemable convertible preferred stock held by the Desai 2010 Children’s Trust and (ii) 5,937 shares of Series G redeemable convertible preferred stock held by The 2:22 DNA Trust.

Series F Financing

Between July 2020 and August 2020, we completed the sale of an aggregate of 24,828,160 shares of our Series F redeemable convertible preferred stock at a purchase price of $3.1006 per share for an aggregate purchase price of $77.0 million. Each share of our Series F redeemable convertible preferred stock will convert into shares of our common stock immediately prior to the closing of this offering in accordance with our certificate of incorporation.

The following table summarizes the Series F redeemable convertible preferred stock purchased by holders of more than 5% of our capital stock, our board of directors and any entities affiliated with our executive officers or a member of our board of directors.

	Initial Closing		Second Closing			
Participants[1]	Shares of Series F Redeemable Convertible Preferred Stock	Aggregate Purchase Price	Shares of Series F Redeemable Convertible Preferred Stock	Aggregate Purchase Price	Total Shares Purchased	Aggregate Purchase Price
		(in thousands)		(in thousands)		(in thousands)
Viking Global Opportunities Illiquid Investments Sub-Master LP	3,225,182	$ 10,000	—	$ —	3,225,182	$ 10,000
Entity Associated with CPMG, Inc.	9,659,805	$ 29,951	129,007	$ 400	9,788,812	$ 30,351
Antal Desai[2]	40,637	$ 126	—	$ —	40,637	$ 126
Frederic Moll	80,630	$ 250	—	$ —	80,630	$ 250
Reza Zadno	16,126	$ 50	—	$ —	16,126	$ 50

(1) Additional details regarding these stockholders and their equity holdings are provided in the section titled “Principal Stockholders.”
(2) Includes 5,160 shares of Series F redeemable convertible preferred stock purchased by the Desai 2010 Children’s Trust.

Series E Financing

In February 2018, we completed the sale of an aggregate of 39,968,857 shares of our Series E redeemable convertible preferred stock at a purchase price of $2.89 per share for an aggregate purchase price of $115.5 million. Each share of our Series E redeemable convertible preferred stock will convert into shares of our common stock immediately prior to the closing of this offering in accordance with our certificate of incorporation.

The following table summarizes the Series E redeemable convertible preferred stock purchased by holders of more than 5% of our capital stock, our board of directors and any entities affiliated with our executive officers or a member of our board of directors.

Participants[1]	Shares of Series E Redeemable Convertible Preferred Stock	Aggregate Purchase Price
		(in thousands)
Viking Global Opportunities Illiquid Investments Sub-Master LP	17,647,058	$ 51,000
Entity Associated with CPMG, Inc.	14,258,827	$ 41,208[3]
Taylor Harris[2]	136,167	$ 354[4]
Antal Desai	77,375[5]	$ 211[6]
Frederic Moll	39,789	$ 103[4]
Nikolai Aljuri, Ph.D.[7]	39,789	$ 103[4]

(1) Additional details regarding these stockholders and their equity holdings are provided in the section titled “Principal Stockholders.”
(2) Series E redeemable convertible preferred stock are held in the Harris Trust Dated 3/10/2016.
(3) Amount shown includes $5,089,632 related to the cancellation of debt.
(4) Amounts shown relate to the cancellation of debt.
(5) Includes (i) 2,984 shares of Series E redeemable convertible preferred stock held by the Desai 2010 Children’s Trust and (ii) 39,789 shares of Series E redeemable convertible preferred stock held by The 2:22 DNA Trust.
(6) Amount shown includes $111,255 related to the cancellation of debt.
(7) Series E redeemable convertible preferred stock are held in The Aljuri Family Trust u/a/d 8-22-2012.

Amended and Restated Investor Rights Agreement

We are party to an amended and restated investor rights agreement with certain holders of our redeemable convertible preferred stock and common stock, entities affiliated with certain of our executive officers and directors, as well as certain of our executive officers and directors. The amended and restated investor rights agreement grants rights to certain holders, including certain registration rights with respect to the registrable securities held by them, and also imposes certain affirmative obligations on us, including with respect to the furnishing of financial statements and information to the holders. See the section titled "Description of Capital Stock—Registration Rights" for additional information.

As a result of this offering, most of the covenants and restrictions set forth in the amended and restated investor rights agreement that apply to us will terminate and we will remain obligated to comply with reporting requirements under the Exchange Act. The provisions relating registration rights included in the amended and restated investor rights agreement will not terminate as a result of this offering.

Voting Agreement

We are party to the Series F voting agreement with certain holders of our redeemable convertible preferred stock and common stock, entities affiliated with certain of our executive officers and directors, as well as certain of our executive officers and directors. Pursuant to the Series F voting agreement, these holders have agreed to vote in a certain way on certain matters, including with respect to the election of directors.

The Series F voting agreement will terminate by its terms in connection with the completion of this offering and none of our stockholders will have any continuing voting rights, including special rights regarding the election or designation of members of our board of directors, following this offering.

Amended and Restated Right of First Refusal and Co-Sale Agreement

We are party to an amended and restated first refusal and co-sale agreement with certain holders of our redeemable convertible preferred stock and common stock, entities affiliated with certain of our executive officers and directors, as well as certain of our executive officers and directors, pursuant to which we have a right of first refusal and holders of our common stock that are party to the amended and restated first refusal and co-sale agreement have a right of first refusal and a co-sale right.

The amended and restated first refusal and co-sale agreement will terminate in connection with the completion of this offering.

License Agreement with AquaBeam LLC

In September 2019, we entered into the AquaBeam License Agreement, with AquaBeam, which is affiliated with Rodney Perkins, one of our co-founders and a member of our board of directors who will resign from the board effective immediately upon effectiveness of the registration statement of which this prospectus is a part. Pursuant to the AquaBeam License Agreement, AquaBeam grants us a worldwide, exclusive (even as to AquaBeam), sublicensable, royalty-free license under the AquaBeam patents and to all other patent rights owned by AquaBeam, which are filed on or before the earlier of October 28, 2021 and the date on which we are acquired by a third party, that claim certain technology related to delivering energy to tissues by directing a liquid fluid stream, or together with AquaBeam Patents, Licensed Patents, in the field of urology, or Field. Pursuant to the AquaBeam License Agreement, and subject to the terms therein, we grant AquaBeam a worldwide, exclusive (even as to us), sublicensable, royalty-free license under certain of our patents rights, which are filed on or before the earlier of October 28, 2021 and the date on which AquaBeam is acquired by a third party, that claim certain technology related to delivering energy to tissues by directing a liquid fluid stream, or PROCEPT Patents, outside the Field. No upfront payments or milestone payments (except for patent prosecution and maintenance costs) have been made or are otherwise required under the AquaBeam License Agreement.

If AquaBeam desires to grant a license under the Licensed Patents to any third party outside the Field on or before the earlier of October 28, 2021 or the date on which AquaBeam is acquired by a third party, we have the first right to negotiate such license grant pursuant to the terms of the AquaBeam License Agreement.

AquaBeam has the first right to prosecute and maintain the Licensed Patents and we have the right to step-in if AquaBeam declines or fails to prosecute or maintain any of the Licensed Patents. We have the first right to prosecute and maintain the PROCEPT Patents. We have the first right to enforce the Licensed Patents and the PROCEPT Patents if a third party infringes on any such patents in the Field, provided, if such third party infringes the Licensed Patents or the PROCEPT Patents both in and outside of the Field, or Cross-Field Infringement, and AquaBeam or any of its other licensees under the Licensed Patents or the PROCEPT Patents are developing or commercializing products that are covered by the infringed Licensed Patents or the PROCEPT Patents, then AquaBeam and we will discuss which party will control the enforcement action with respect to such Cross-Field Infringement.

The AquaBeam License Agreement will remain in full force and effect on a country-by-country basis until the last to expire of the Licensed Patents and the PROCEPT Patents in such country. The AquaBeam Agreement may be terminated by either party in the event of uncured material breach by the other party that remains uncured for 90 days (or 30 days for payment related breaches), or bankruptcy of the other party.

Indemnification Agreements

Our amended and restated bylaws, as will be in effect following this offering, provide that we will indemnify our directors and officers to the fullest extent permitted by the DGCL, subject to certain exceptions contained in our amended and restated bylaws. In addition, our amended and restated certificate of incorporation, as will be in effect following this offering, will provide that our directors will not be liable for monetary damages for breach of fiduciary duty.

Prior to the closing of this offering, we will enter into indemnification agreements with each of our executive officers and directors. The indemnification agreements will provide the indemnitees with contractual rights to indemnification, and expense advancement and reimbursement, to the fullest extent permitted under the DGCL, subject to certain exceptions contained in those agreements.

There is no pending litigation or proceeding naming any of our directors or officers for which indemnification is being sought, and we are not aware of any pending litigation that may result in claims for indemnification by any director or executive officer.

Our Policy Regarding Related Party Transactions

Our board of directors recognizes the fact that transactions with related persons present a heightened risk of conflicts of interests or improper valuation (or the perception thereof). In connection with this offering, our board of directors intends to adopt a written policy on transactions with related persons that is in conformity with the requirements for issuers having publicly held common stock that is listed on the Nasdaq Global Market. Under such policy:

- any related person transaction, and any material amendment or modification to a related person transaction, must be reviewed and approved or ratified by a committee of the board of directors composed solely of independent directors who are disinterested or by the disinterested members of the board of directors; and
- any employment relationship or transaction involving an executive officer and any related compensation must be approved by the compensation committee of the board of directors or recommended by the compensation committee to the board of directors for its approval.

In connection with the review and approval or ratification of a related person transaction:

- management must disclose to the committee or disinterested directors, as applicable, the name of the related person and the basis on which the person is a related person, the material terms of the related person transaction, including the approximate dollar value of the amount involved in the transaction and all the

material facts as to the related person's direct or indirect interest in, or relationship to, the related person transaction;

- management must advise the committee or disinterested directors, as applicable, as to whether the related person transaction complies with the terms of our agreements governing our material outstanding indebtedness that limit or restrict our ability to enter into a related person transaction;
- management must advise the committee or disinterested directors, as applicable, as to whether the related person transaction will be required to be disclosed in our applicable filings under the Securities Act or the Exchange Act, and related rules, and, to the extent required to be disclosed, management must ensure that the related person transaction is disclosed in accordance with such Acts and related rules; and
- management must advise the committee or disinterested directors, as applicable, as to whether the related person transaction constitutes a "personal loan" for purposes of Section 402 of the Sarbanes-Oxley Act.

In addition, the related person transaction policy will provide that the committee or disinterested directors, as applicable, in connection with any approval or ratification of a related person transaction involving a non-employee director or director nominee, should consider whether such transaction would compromise the director or director nominee's status as an "independent," or "outside" director, as applicable, under the rules and regulations of the SEC, the Nasdaq listing standards and the Code.

DESCRIPTION OF CAPITAL STOCK

The following descriptions of our capital stock and provisions of our amended and restated certificate of incorporation and our amended and restated bylaws are summaries and are qualified by reference to the amended and restated certificate of incorporation and the amended and restated bylaws, which are filed as exhibits to the registration statement of which this prospectus forms a part.

General

Upon the closing of this offering, our authorized capital stock will consist of shares, all with a par value of $0.00001 per share, of which:

- shares are designated as common stock; and
- shares are designated as preferred stock.

Common Stock

Holders of our common stock are entitled to one vote for each share held on all matters submitted to a vote of stockholders and do not have cumulative voting rights. An election of directors by our stockholders shall be determined by a plurality of the votes cast by the stockholders entitled to vote on the election. Holders of common stock are entitled to receive proportionately any dividends as may be declared by our board of directors, subject to any preferential dividend rights of any series of preferred stock that we may designate and issue in the future.

In the event of our liquidation or dissolution, the holders of common stock are entitled to receive proportionately our net assets available for distribution to stockholders after the payment of all debts and other liabilities and subject to the prior rights of any outstanding preferred stock. Holders of common stock have no preemptive, subscription, redemption or conversion rights. Our outstanding shares of common stock are, and the shares offered by us in this offering will be, when issued and paid for, validly issued, fully paid and nonassessable. The rights, preferences and privileges of holders of common stock are subject to and may be adversely affected by the rights of the holders of shares of any series of preferred stock that we may designate and issue in the future.

Preferred Stock

Under the terms of our amended and restated certificate of incorporation that will become effective immediately prior to the closing of this offering, our board of directors is authorized to direct us to issue shares of preferred stock in one or more series without stockholder approval. Our board of directors has the discretion to determine the rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, of each series of preferred stock.

The purpose of authorizing our board of directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third-party to acquire, or could discourage a third-party from seeking to acquire, a majority of our outstanding voting stock. Upon the closing of this offering, there will be no shares of preferred stock outstanding, and we have no present plans to issue any shares of preferred stock.

Registration Rights

Our amended and restated investor rights agreement grants the parties thereto certain registration rights in respect of the “registrable securities” held by them, which securities include (i) the shares of our common stock issued upon the conversion of shares of our redeemable convertible preferred stock and warrants (ii) the common stock held by the founders and affiliates of the founders, (iii) any common stock of the company (issued or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend 0r other distribution with respect to, or in exchange for or in replacement of, such above described securities. Notwithstanding the foregoing, registrable securities does not include any securities (a) sold by a person to the public either pursuant to a registration statement or Rule 144 or (b) sold in a private transaction in which the

transferor's rights are not assigned. The registration of shares of our common stock pursuant to the exercise of these registration rights would enable the holders thereof to sell such shares without restriction under the Securities Act when the applicable registration statement is declared effective. Under the amended and restated investor rights agreement, we will pay expenses relating to such registrations and the holders will pay all underwriting discounts and commissions relating to the sale of their shares. The amended and restated investor rights agreement also includes customary indemnification and procedural terms.

Holders of our outstanding shares of common and preferred stock, which represents approximately % of our outstanding shares before the offering, are entitled to registration rights pursuant to the amended and restated investor rights agreement. These registration rights will expire on the third anniversary of this offering or, with respect to each stockholder following the completion of this offering, at such time as such stockholder can sell all of its registrable securities pursuant to Rule 144(b)(1)(i) of the Securities Act or holds one percent or less of our outstanding common stock and all of such stockholder's registrable securities can be sold in any ninety day period without registration pursuant to Rule 144 of the Securities Act.

Demand Registration Rights

The amended and restated investor rights agreement provides that, at any time beginning on the 180th day after the closing of this offering, holders of not less than twenty five percent of the registrable securities then outstanding may, on not more than two occasions, request that we prepare, file and maintain a registration statement to register their registrable securities if the aggregate offering price to the public would exceed $7.5 million. Following such a request, we will as soon as practicable, but in any event no more than 100 days, use our best efforts to effect such registration. Once we are eligible to use a registration statement on Form S-3, the stockholders party to the amended and restated investor rights agreement may request that we prepare, file and maintain a registration statement on Form S-3 covering the sale of their registrable securities, but only if the anticipated offering price would exceed $3.0 million.

Piggyback Registration Rights

In the event that we propose to register any of our securities under the Securities Act, either for our own account or for the account of other security holders, the stockholders party to the amended and restated investor rights agreement will be entitled to certain "piggyback" registration rights allowing them to include their registrable securities in such registration, subject to certain marketing and other limitations. As a result, whenever we propose to file a registration statement under the Securities Act other than with respect to (i) a registration relating solely to the employee benefits plans, (ii) a registration relating to the offer and sale of debt securities or (iii) a registration relating to a corporate reorganization transaction related to the issuance or resale of securities in such a transaction, the stockholders party to the amended and restated investor rights agreement will be entitled to notice of the registration and will have the right to include their registrable securities in the registration subject to certain limitations.

Anti-Takeover Provisions

Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws

Because our stockholders do not have cumulative voting rights, our stockholders holding a majority of the voting power of our shares of common stock outstanding will be able to elect all of our directors. Our amended and restated certificate of incorporation and amended and restated bylaws, which will be in effect upon the closing of this offering, will provide that all stockholder actions must be effected at a duly called meeting of stockholders and not by consent in writing. A special meeting of stockholders may be called only by a majority of our board of directors, the chair of our board of directors, or our chief executive officer.

Our amended and restated certificate of incorporation will further provide that, immediately after this offering, the affirmative vote of 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 voting stock, voting as a single class, will be required to amend certain provisions of our certificate of incorporation, including provisions relating to the size of the board, removal of directors, special meetings, actions by written consent and cumulative voting. The affirmative vote of 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 voting stock, voting as a single class, will be required to amend or repeal our bylaws, although our bylaws may be amended by a simple majority vote of our board of directors.

Our amended and restated certificate of incorporation will further provide that our board of directors is divided into three classes, Class I, Class II and Class III, with each class serving staggered terms, and will give our board of directors the exclusive right to expand the size of our board of directors and to elect directors to fill a vacancy created by the expansion of the board of directors or the resignation, death or removal of a director.

Finally, our amended and restated certificate of incorporation will provide that, unless we consent in writing to the selection of an alternative forum, to the fullest extent permitted by law, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for: (i) any derivative action or proceeding brought on behalf of us; (ii) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or other employees or agents to us or our stockholders; (iii) any action asserting a claim against us arising pursuant to any provision of the Delaware General Corporation Law or our amended and restated certificate of incorporation or amended and restated bylaws; or as to which the Delaware General Corporation Law of the State of Delaware confers jurisdiction to the Court of Chancery of the State of Delaware, or (iv) any action asserting a claim against us governed by the internal affairs doctrine; provided that, the exclusive forum provision will not apply to suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction; and provided further that, if and only if the Court of Chancery of the State of Delaware dismisses any such action for lack of subject matter jurisdiction, such action may be brought in another state or federal court sitting in the State of Delaware. Our amended and restated certificate of incorporation will also provide that the federal district courts of the United States of America will be the exclusive forum for the resolution of any complaint asserting a cause of action against us or any of our directors, officers, employees or agents and arising under the Securities Act. Under the Securities Act, federal and state courts have concurrent jurisdiction over all suits brought to enforce any duty or liability created by the Securities Act, and investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder. Accordingly, there is uncertainty as to whether a court would enforce such a forum selection provision as written in connection with claims arising under the Securities Act. The enforceability of similar choice of forum provisions in other companies' certificates of incorporation has been challenged in legal proceedings, and it is possible that, in connection with any action, a future court could find the choice of forum provisions contained in our amended and restated certificate of incorporation to be inapplicable or unenforceable in such action. These provisions may also result in increased costs for investors seeking to bring a claim against us or any of our directors, officers or other employees.

The foregoing provisions will make it more difficult for our existing stockholders to replace our board of directors as well as for another party to obtain control of our company by replacing our board of directors. Since our board of directors has the power to retain and discharge our officers, these provisions could also make it more difficult for existing stockholders or another party to effect a change in management. In addition, the authorization of undesignated preferred stock makes it possible for our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to change the control of our company.

These provisions are intended to enhance the likelihood of continued stability in the composition of our board of directors and its policies and to discourage certain types of transactions that may involve an actual or threatened acquisition of our company. These provisions are also designed to reduce our vulnerability to an unsolicited acquisition proposal and to discourage certain tactics that may be used in proxy rights. However, these provisions could have the effect of discouraging others from making tender offers for our shares and may have the effect of deterring hostile takeovers or delaying changes in control of our company or our management. As a consequence, these provisions also may inhibit fluctuations in the market price of our stock that could result from actual or rumored takeover attempts.

Section 203 of the Delaware General Corporation Law

We are subject to Section 203 of the DGCL, which prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years after the date that such stockholder became an interested stockholder, with the following exceptions:

before such date, our board of directors approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;

upon closing of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction began, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned by (i) persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or on or after such date, the business combination is approved by our board of directors and authorized at an annual or special meeting of the stockholders, and not by written consent, by the affirmative vote of at least 66-2/3% of the outstanding voting stock that is not owned by the interested stockholder.

In general, Section 203 defines business combination to include the following:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation involving the interested stockholder;
- subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- any transaction involving the corporation that has the effect of increasing the proportionate share of the stock or any class or series of the corporation beneficially owned by the interested stockholder; or
- the receipt by the interested stockholder of the benefit of any loss, advances, guarantees, pledges or other financial benefits by or through the corporation.

In general, Section 203 defines an “interested stockholder” as an entity or person who, together with the person’s affiliates and associates, beneficially owns, or within three years prior to the time of determination of interested stockholder status did own, 15% or more of the outstanding voting stock of the corporation.

Limitations on Liability and Indemnification Matters

Our amended and restated certificate of incorporation and amended and restated bylaws, which will become effective immediately prior to the closing of this offering, will provide that we will indemnify each of our directors and executive officers to the fullest extent permitted by the DGCL. We have entered into indemnification agreements with each of our directors and executive officers that may, in some cases, be broader than the specific indemnification provisions contained under Delaware law. Further, pursuant to our indemnification agreements and directors’ and officers’ liability insurance, our directors and executive officers are indemnified and insured against the cost of defense, settlement or payment of a judgment under certain circumstances. In addition, as permitted by Delaware law, our amended and restated certificate of incorporation will include provisions that eliminate the personal liability of our directors for monetary damages resulting from breaches of certain fiduciary duties as a director. The effect of this provision is to restrict our rights and the rights of our stockholders in derivative suits to recover monetary damages against a director for breach of fiduciary duties as a director.

These provisions may be held not to be enforceable for violations of the federal securities laws of the United States.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock will be . The transfer agent and registrar's address is .

Stock Exchange Listing

We have applied to list our common stock on the Nasdaq Global Market under the symbol "PRCT."

SHARES ELIGIBLE FOR FUTURE SALE

The sale of a substantial amount of our common stock in the public market after this offering could adversely affect the prevailing market price of our common stock. Furthermore, over % of our common stock outstanding prior to the consummation of this offering will be subject to the contractual and legal restrictions on resale described below. The sale of a substantial amount of common stock in the public market after these restrictions lapse, or the expectation that such a sale may occur, could adversely affect the prevailing market price of our common stock and our ability to raise equity capital in the future.

Upon consummation of this offering, based on shares outstanding as of June 30, 2021, we expect to have outstanding an aggregate of shares of our common stock, assuming no exercise of outstanding options and assuming that the underwriters have not exercised their option to purchase additional shares. All of the shares of common stock sold in this offering will be freely transferable without restriction or further registration under the Securities Act by persons other than "affiliates," as that term is defined in Rule 144 under the Securities Act. Generally, the balance of our outstanding shares of common stock are "restricted securities" within the meaning of Rule 144 under the Securities Act, and the sale of those shares will be subject to the limitations and restrictions that are described below. Shares of our common stock that are not restricted securities and are purchased by our affiliates will be "control securities" under Rule 144. Restricted securities may be sold in the public market only if registered under the Securities Act or if they qualify for an exemption from registration under Rule 144 or Rule 701 under the Securities Act. These rules are summarized below. Control securities may be sold in the public market subject to the restrictions set forth in Rule 144, other than the holding period requirement.

Upon the expiration of the lock-up agreements described below, 180 days after the date of this prospectus, and subject to the provisions of Rule 144, an additional shares will be available for sale in the public market. The sale of these restricted securities is subject, in the case of shares held by affiliates, to the volume restrictions contained in Rule 144.

Lock-Up Agreements

In connection with this offering, we and our executive officers and directors and substantially all of our existing security holders have agreed with the underwriters not to, among other things and subject to certain exceptions, sell or transfer any common stock or securities convertible into, exchangeable for, exercisable for, or repayable with common stock, for 180 days after the date of this prospectus without first obtaining the written consent of BofA Securities, Inc. and Goldman Sachs & Co. LLC, subject to certain limited exceptions. This lock-up provision applies to common stock and to securities convertible into or exchangeable or exercisable for or repayable with common stock. It also applies to common stock owned now or acquired later by the person executing the agreement or for which the person executing the agreement later acquires the power of disposition.

Rule 144

In general, under Rule 144 as in effect on the date of this prospectus, beginning 90 days after the consummation of this offering, a person who is an affiliate, and who has beneficially owned our common stock for at least six months, is entitled to sell in any three-month period a number of shares that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately million shares immediately after consummation of this offering; or
- the average weekly trading volume in our common stock on the Nasdaq Global Market during the four calendar weeks preceding the filing of a notice on Form 144 with respect to that sale.

Sales by our affiliates under Rule 144 are also subject to manner of sale provisions and notice requirements and to the availability of current public information about us. An "affiliate" is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with an issuer.

Under Rule 144, a person who is not deemed to have been an affiliate of ours at any time during the 90 days preceding a sale, and who has beneficially owned the shares proposed to be sold for at least six months, would be

entitled to sell those shares subject only to availability of current public information about us, and after beneficially owning such shares for at least twelve months, would be entitled to sell an unlimited number of shares without restriction. To the extent that our affiliates sell their common stock, other than pursuant to Rule 144 or a registration statement, the purchaser's holding period for the purpose of effecting a sale under Rule 144 commences on the date of transfer from the affiliate.

Rule 701

In general, under Rule 701 as in effect on the date of this prospectus, any of our employees, directors, officers, consultants or advisors who purchased shares from us in reliance on Rule 701 in connection with a compensatory stock or option plan or other written agreement before the effective date of this offering, or who purchased shares from us after that date upon the exercise of options granted before that date, are eligible to resell such shares 90 days after the effective date of this offering in reliance upon Rule 144. If such person is not an affiliate, such sale may be made subject only to the manner of sale provisions of Rule 144. If such a person is an affiliate, such sale may be made under Rule 144 without compliance with the holding period requirement, but subject to the other Rule 144 restrictions described above. However, substantially all Rule 701 shares are subject to lock-up agreements as described above and will become eligible for sale in compliance with Rule 144 only upon the expiration of the restrictions set forth in those agreements.

Stock Plans

We intend to file a registration statement or statements on Form S-8 under the Securities Act covering shares of common stock reserved for issuance under our 2021 Plan and ESPP and pursuant to all outstanding option grants made prior to this offering under the 2008 Plan. These registration statements are expected to be filed as soon as practicable after the closing date of this offering. Shares issued upon the exercise of stock options after the effective date of the applicable Form S-8 registration statement will be eligible for resale in the public market without restriction, subject to Rule 144 limitations applicable to affiliates and the lock-up agreements described above.

Registration Rights

Following this offering, some of our stockholders will, under some circumstances, have the right to require us to register their shares for future sale. See the section titled "Certain Relationships and Related Party Transactions —Amended and Restated Investor Rights Agreement."

MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS OF OUR COMMON STOCK

The following discussion is a summary of the material U.S. federal income tax consequences to Non-U.S. Holders (as defined below) of the purchase, ownership, and disposition of our common stock issued pursuant to this offering, but does not purport to be a complete analysis of all potential tax effects. The effects of other U.S. federal tax laws, such as estate and gift tax laws, and any applicable state, local, or non-U.S. tax laws are not discussed. This discussion is based on the U.S. Internal Revenue Code of 1986, as amended, or the Code, Treasury Regulations promulgated thereunder, judicial decisions, and published rulings and administrative pronouncements of the U.S. Internal Revenue Service, or the IRS, in each case in effect as of the date hereof. These authorities may change or be subject to differing interpretations. Any such change or differing interpretation may be applied retroactively in a manner that could adversely affect a Non-U.S. Holder. We have not sought and will not seek any rulings from the IRS regarding the matters discussed below. There can be no assurance the IRS or a court will not take a contrary position to that discussed below regarding the tax consequences of the purchase, ownership, and disposition of our common stock.

This discussion is limited to Non-U.S. Holders that hold our common stock as a "capital asset" within the meaning of Section 1221 of the Code (generally, property held for investment). This discussion does not address all U.S. federal income tax consequences relevant to a Non-U.S. Holder's particular circumstances, including the impact of the Medicare contribution tax on net investment income and the alternative minimum tax. In addition, it does not address consequences relevant to Non-U.S. Holders subject to special rules, including, without limitation:

- U.S. expatriates and former citizens or long-term residents of the United States;
- persons holding our common stock as part of a hedge, straddle, or other risk reduction strategy or as part of a conversion transaction or other integrated investment;
- banks, insurance companies, and other financial institutions;
- brokers, dealers, or traders in securities;
- "controlled foreign corporations," "passive foreign investment companies," and corporations that accumulate earnings to avoid U.S. federal income tax;
- partnerships or other entities or arrangements treated as partnerships for U.S. federal income tax purposes (and investors therein);
- tax-exempt organizations or governmental organizations;
- persons deemed to sell our common stock under the constructive sale provisions of the Code;
- persons who hold or receive our common stock pursuant to the exercise of any employee stock option or otherwise as compensation;
- tax-qualified retirement plans; and
- "qualified foreign pension funds" as defined in Section 897(l)(2) of the Code and entities all of the interests of which are held by qualified foreign pension funds.

If an entity treated as a partnership for U.S. federal income tax purposes holds our common stock, the tax treatment of a partner in the partnership will depend on the status of the partner, the activities of the partnership, and certain determinations made at the partner level. Accordingly, partnerships holding our common stock and the partners in such partnerships should consult their tax advisors regarding the U.S. federal income tax consequences to them.

THIS DISCUSSION IS FOR INFORMATION PURPOSES ONLY AND IS NOT TAX ADVICE. INVESTORS SHOULD CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE APPLICATION OF THE U.S. FEDERAL INCOME TAX LAWS TO THEIR PARTICULAR SITUATIONS AS WELL AS

ANY TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP, AND DISPOSITION OF OUR COMMON STOCK ARISING UNDER THE U.S. FEDERAL ESTATE OR GIFT TAX LAWS OR UNDER THE LAWS OF ANY STATE, LOCAL, OR NON-U.S. TAXING JURISDICTION OR UNDER ANY APPLICABLE INCOME TAX TREATY.

Definition of a Non-U.S. Holder

For purposes of this discussion, a "Non-U.S. Holder" is any beneficial owner of our common stock that is neither a "U.S. person" nor an entity treated as a partnership for U.S. federal income tax purposes. A U.S. person is any person that, for U.S. federal income tax purposes, is or is treated as any of the following:

- an individual who is a citizen or resident of the United States;
- a corporation created or organized under the laws of the United States, any state thereof, or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust that (i) is subject to the primary supervision of a U.S. court and the control of one or more "United States persons" (within the meaning of Section 7701(a)(30) of the Code), or (ii) has a valid election in effect to be treated as a United States person for U.S. federal income tax purposes.

Distributions

As described in the section titled "Dividend Policy," we do not anticipate declaring or paying dividends to holders of our common stock in the foreseeable future. However, if we do make distributions of cash or property on our common stock, such distributions will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Amounts not treated as dividends for U.S. federal income tax purposes will constitute a return of capital and first be applied against and reduce a Non-U.S. Holder's adjusted tax basis in its common stock, but not below zero. Any excess will be treated as capital gain and will be treated as described below under "—Sale or Other Taxable Disposition."

Subject to the discussion below on effectively connected income, dividends paid to a Non-U.S. Holder will be subject to U.S. federal withholding tax at a rate of 30% of the gross amount of the dividends (or such lower rate specified by an applicable income tax treaty, provided the Non-U.S. Holder furnishes a valid IRS Form W-8BEN or W-8BEN-E (or other applicable documentation) certifying qualification for the lower treaty rate). A Non-U.S. Holder that does not timely furnish the required documentation, but that qualifies for a reduced treaty rate, may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS. Non-U.S. Holders should consult their tax advisors regarding their entitlement to benefits under any applicable income tax treaty.

If dividends paid to a Non-U.S. Holder are effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such dividends are attributable), the Non-U.S. Holder will be exempt from the U.S. federal withholding tax described above. To claim the exemption, the Non-U.S. Holder must furnish to the applicable withholding agent a valid IRS Form W-8ECI, certifying that the dividends are effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States.

Any such effectively connected dividends will be subject to U.S. federal income tax on a net income basis at the regular rates. A Non-U.S. Holder that is a corporation also may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on such effectively connected dividends, as adjusted for certain items. Non-U.S. Holders should consult their tax advisors regarding any applicable tax treaties that may provide for different rules.

Sale or Other Taxable Disposition

A Non-U.S. Holder will not be subject to U.S. federal income tax on any gain realized upon the sale or other taxable disposition of our common stock unless:

- the gain is effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such gain is attributable);
- the Non-U.S. Holder is a nonresident alien individual present in the United States for 183 days or more during the taxable year of the disposition and certain other requirements are met; or
- our common stock constitutes a U.S. real property interest, or USRPI, by reason of our status as a U.S. real property holding corporation, or USRPHC, for U.S. federal income tax purposes.

Gain described in the first bullet point above generally will be subject to U.S. federal income tax on a net income basis at the regular rates. A Non-U.S. Holder that is a corporation also may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on such effectively connected gain, as adjusted for certain items.

A Non-U.S. Holder described in the second bullet point above will be subject to U.S. federal income tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on gain realized upon the sale or other taxable disposition of our common stock, which may be offset by U.S. source capital losses of the Non-U.S. Holder (even though the individual is not considered a resident of the United States), provided the Non-U.S. Holder has timely filed U.S. federal income tax returns with respect to such losses.

With respect to the third bullet point above, we believe we currently are not, and do not anticipate becoming, a USRPHC. Because the determination of whether we are a USRPHC depends, however, on the fair market value of our USRPIs relative to the fair market value of our non-U.S. real property interests and our other business assets, there can be no assurance we currently are not a USRPHC or will not become one in the future. Even if we are or were to become a USRPHC, gain arising from the sale or other taxable disposition of our common stock by a Non-U.S. Holder will not be subject to U.S. federal income tax if our common stock is "regularly traded," as defined by applicable Treasury Regulations, on an established securities market and such Non-U.S. Holder owned, actually and constructively, 5% or less of our common stock throughout the shorter of the five-year period ending on the date of the sale or other taxable disposition or the Non-U.S. Holder's holding period.

Non-U.S. Holders should consult their tax advisors regarding potentially applicable income tax treaties that may provide for different rules.

Information Reporting and Backup Withholding

Payments of dividends on our common stock will not be subject to backup withholding, provided the applicable withholding agent does not have actual knowledge or reason to know the holder is a United States person and the holder either certifies its non-U.S. status, such as by furnishing a valid IRS Form W-8BEN, W-8BEN-E, or W-8ECI, or otherwise establishes an exemption. However, information returns are required to be filed with the IRS in connection with any distributions on our common stock paid to the Non-U.S. Holder, regardless of whether such distributions constitute dividends or whether any tax was actually withheld. In addition, proceeds of the sale or other taxable disposition of our common stock within the United States or conducted through certain U.S.-related brokers generally will not be subject to backup withholding or information reporting if the applicable withholding agent receives the certification described above and does not have actual knowledge or reason to know that such holder is a United States person or the holder otherwise establishes an exemption. Proceeds of a disposition of our common stock conducted through a non-U.S. office of a non-U.S. broker generally will not be subject to backup withholding or information reporting.

Copies of information returns that are filed with the IRS may also be made available under the provisions of an applicable treaty or agreement to the tax authorities of the country in which the Non-U.S. Holder resides or is established.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against a Non-U.S. Holder's U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

Additional Withholding Tax on Payments Made to Foreign Accounts

Withholding taxes may be imposed under Sections 1471 to 1474 of the Code (such Sections commonly referred to as the Foreign Account Tax Compliance Act, or FATCA) on certain types of payments made to non-U.S. financial institutions and certain other non-U.S. entities. Specifically, a 30% withholding tax may be imposed on dividends on, or (subject to the proposed Treasury Regulations discussed below) gross proceeds from the sale or other disposition of, our common stock paid to a "foreign financial institution" or a "non-financial foreign entity" (each as defined in the Code), unless (i) the foreign financial institution undertakes certain diligence and reporting obligations, (ii) the non-financial foreign entity either certifies it does not have any "substantial United States owners" (as defined in the Code) or furnishes identifying information regarding each substantial United States owner, or (iii) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules. If the payee is a foreign financial institution and is subject to the diligence and reporting requirements in (i) above, it must enter into an agreement with the U.S. Department of the Treasury requiring, among other things, that it undertake to identify accounts held by certain "specified United States persons" or "United States owned foreign entities" (each as defined in the Code), annually report certain information about such accounts, and withhold 30% on certain payments to non-compliant foreign financial institutions and certain other account holders. Foreign financial institutions located in jurisdictions that have an intergovernmental agreement with the United States governing FATCA may be subject to different rules.

Under the applicable Treasury Regulations and administrative guidance, withholding under FATCA generally applies to payments of dividends on our common stock. While withholding under FATCA would have applied also to payments of gross proceeds from the sale or other disposition of stock on or after January 1, 2019, proposed Treasury Regulations eliminate FATCA withholding on payments of gross proceeds entirely. Taxpayers generally may rely on these proposed Treasury Regulations until final Treasury Regulations are issued.

Prospective investors should consult their tax advisors regarding the potential application of withholding under FATCA to their investment in our common stock.

UNDERWRITING

BofA Securities, Inc. and Goldman Sachs & Co. LLC are acting as representatives of each of the underwriters named below. Subject to the terms and conditions set forth in an underwriting agreement among us and the underwriters, we have agreed to sell to the underwriters, and each of the underwriters has agreed, severally and not jointly, to purchase from us, the number of shares of common stock set forth opposite its name below.

Underwriter	Number of Shares
BofA Securities, Inc.	
Goldman Sachs & Co. LLC	
Cowen and Company, LLC	
Guggenheim Securities LLC	
SVB Leerink LLC	
Total	

Subject to the terms and conditions set forth in the underwriting agreement, the underwriters have agreed, severally and not jointly, to purchase all of the shares sold under the underwriting agreement if any of these shares are purchased. If an underwriter defaults, the underwriting agreement provides that the purchase commitments of the nondefaulting underwriters may be increased or the underwriting agreement may be terminated.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act, or to contribute to payments the underwriters may be required to make in respect of those liabilities.

The underwriters are offering the shares, subject to prior sale, when, as and if issued to and accepted by them, subject to approval of legal matters by their counsel, including the validity of the shares, and other conditions contained in the underwriting agreement, such as the receipt by the underwriters of officers' certificates and legal opinions. The underwriters reserve the right to withdraw, cancel or modify offers to the public and to reject orders in whole or in part.

Commissions and Discounts

The representatives have advised us that the underwriters propose initially to offer the shares to the public at the public offering price set forth on the cover page of this prospectus and to dealers at that price less a concession not in excess of $ per share. After the initial offering, the public offering price, concession or any other term of the offering may be changed.

The following table shows the public offering price, underwriting discounts and commissions and proceeds before expenses to us. The information assumes either no exercise or full exercise by the underwriters of their option to purchase additional shares.

		Total	
	Per Share	Without Option	With Option
Public offering price	$	$	$
Underwriting discounts and commissions	$	$	$
Proceeds, before expenses, to us	$	$	$

The expenses of the offering, not including the underwriting discounts and commissions, payable by us are estimated to be approximately $. We have also agreed to reimburse the underwriters for certain of their expenses incurred in connection with, among others, the review and clearance by the Financial Industry Regulatory Authority, Inc. in an amount of up to $.

Option to Purchase Additional Shares

We have granted an option to the underwriters, exercisable for 30 days after the date of this prospectus, to purchase up to additional shares at the public offering price, less the underwriting discounts and commissions. If the underwriters exercise this option, each will be obligated, subject to conditions contained in the underwriting agreement, to purchase a number of additional shares proportionate to that underwriter's initial amount reflected in the above table.

No Sales of Similar Securities

We, our executive officers and directors and substantially all of our other existing security holders have agreed not to sell or transfer any common stock or securities convertible into, exchangeable for, exercisable for, or repayable with common stock, for 180 days after the date of this prospectus without first obtaining the written consent of BofA Securities, Inc. and Goldman Sachs & Co. LLC. Specifically, we and these other persons have agreed, with certain limited exceptions, not to directly or indirectly:

- offer, pledge, sell or contract to sell any common stock,
- sell any option or contract to purchase any common stock,
- purchase any option or contract to sell any common stock,
- grant any option, right or warrant for the sale of any common stock,
- lend or otherwise dispose of or transfer any common stock,
- request or demand that we file or make a confidential submission of a registration statement related to the common stock, or
- enter into any swap or other agreement that transfers, in whole or in part, the economic consequence of ownership of any common stock whether any such swap or transaction is to be settled by delivery of shares or other securities, in cash or otherwise.

This lock-up provision applies to common stock and to securities convertible into or exchangeable or exercisable for or repayable with common stock. It also applies to common stock owned now or acquired later by the person executing the agreement or for which the person executing the agreement later acquires the power of disposition.

Listing

We have applied to list the shares of our common stock on the Nasdaq Global Market under the symbol "PRCT."

Determination of Offering Price

Before this offering, there has been no public market for our common stock. The initial public offering price will be determined through negotiations between us and the representatives. In addition to prevailing market conditions, the factors to be considered in determining the initial public offering price are:

- the valuation multiples of publicly traded companies that the representatives believe to be comparable to us,
- our financial information,
- the history of, and the prospects for, our company and the industry in which we compete,
- an assessment of our management, its past and present operations, and the prospects for, and timing of, our future revenues,
- the present state of our development, and

- the above factors in relation to market values and various valuation measures of other companies engaged in activities similar to ours.

An active trading market for the shares may not develop. It is also possible that after the offering the shares will not trade in the public market at or above the initial public offering price.

The underwriters do not expect to sell more than 5% of the shares in the aggregate to accounts over which they exercise discretionary authority.

Price Stabilization, Short Positions and Penalty Bids

Until the distribution of the shares is completed, SEC rules may limit underwriters and selling group members from bidding for and purchasing our common stock. However, the representatives may engage in transactions that stabilize the price of the common stock, such as bids or purchases to peg, fix or maintain that price.

In connection with the offering, the underwriters may purchase and sell our common stock in the open market. These transactions may include short sales, purchases on the open market to cover positions created by short sales and stabilizing transactions. Short sales involve the sale by the underwriters of a greater number of shares than they are required to purchase in the offering. “Covered” short sales are sales made in an amount not greater than the underwriters’ option to purchase additional shares described above. The underwriters may close out any covered short position by either exercising their option to purchase additional shares or purchasing shares in the open market. In determining the source of shares to close out the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the option granted to them. “Naked” short sales are sales in excess of such option. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of our common stock in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of various bids for or purchases of shares of common stock made by the underwriters in the open market prior to the completion of the offering.

The underwriters may also impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased shares sold by or for the account of such underwriter in stabilizing or short covering transactions.

Similar to other purchase transactions, the underwriters’ purchases to cover the syndicate short sales may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of our common stock. As a result, the price of our common stock may be higher than the price that might otherwise exist in the open market. The underwriters may conduct these transactions on the Nasdaq Global Market, in the over-the-counter market or otherwise.

Neither we nor any of the underwriters make any representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of our common stock. In addition, neither we nor any of the underwriters make any representation that the representatives will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice.

Electronic Distribution

In connection with the offering, certain of the underwriters or securities dealers may distribute prospectuses by electronic means, such as e-mail.

Other Relationships

Some of the underwriters and their affiliates have engaged in, and may in the future engage in, investment banking and other commercial dealings in the ordinary course of business with us or our affiliates. They have received, or may in the future receive, customary fees and commissions for these transactions.

In addition, in the ordinary course of their business activities, the underwriters and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of ours or our affiliates. The underwriters and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

European Economic Area

In relation to each Member State of the European Economic Area (each a Relevant State), no shares have been offered or will be offered pursuant to the offering to the public in that Relevant State prior to the publication of a prospectus in relation to the shares which has been approved by the competent authority in that Relevant State or, where appropriate, approved in another Relevant State and notified to the competent authority in that Relevant State, all in accordance with the Prospectus Regulation, except that the shares may be offered to the public in that Relevant State at any time:

(i) to any legal entity which is a qualified investor as defined under Article 2 of the Prospectus Regulation;

(ii) to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the Prospectus Regulation), subject to obtaining the prior consent of representatives for any such offer; or

(iii) in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of the shares shall require us or any of the representatives to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

For the purposes of this provision, the expression an “offer to the public” in relation to the shares in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the offer and any shares to be offered so as to enable an investor to decide to purchase or subscribe for any shares, and the expression “Prospectus Regulation” means Regulation (EU) 2017/1129.

The above selling restriction is in addition to any other selling restrictions set out below.

Notice to Prospective Investors in the United Kingdom

No shares have been offered or will be offered pursuant to the offering to the public in the United Kingdom prior to the publication of a prospectus in relation to the Shares which has been approved by the Financial Conduct Authority, except that the shares may be offered to the public in the United Kingdom at any time:

(i) to any legal entity which is a qualified investor as defined under Article 2 of the UK Prospectus Regulation;

(ii) to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the UK Prospectus Regulation), subject to obtaining the prior consent of the representatives for any such offer; or

(iii) in any other circumstances falling within Section 86 of the FSMA,

provided that no such offer of the shares shall require the Issuer or any Manager to publish a prospectus pursuant to Section 85 of the FSMA or supplement a prospectus pursuant to Article 23 of the UK Prospectus Regulation. For the purposes of this provision, the expression an “offer to the public” in relation to the shares in the United Kingdom means the communication in any form and by any means of sufficient information on the terms of the offer and any shares to be offered so as to enable an investor to decide to purchase or subscribe for any shares and the expression “UK Prospectus Regulation” means Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018.

Notice to Prospective Investors in Switzerland

The shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange, or SIX, or on any other stock exchange or regulated trading facility in Switzerland. This document has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the shares or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, the Company, the shares have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of shares will not be supervised by, the Swiss Financial Market Supervisory Authority, or FINMA, and the offer of shares has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes, or CISA. The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of shares.

Notice to Prospective Investors in the Dubai International Financial Centre

This prospectus relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority, or DFSA. This prospectus is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus nor taken steps to verify the information set forth herein and has no responsibility for the prospectus. The shares to which this prospectus relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the shares offered should conduct their own due diligence on the shares. If you do not understand the contents of this prospectus you should consult an authorized financial advisor.

Notice to Prospective Investors in Australia

No placement document, prospectus, product disclosure statement or other disclosure document has been lodged with the Australian Securities and Investments Commission, or ASIC, in relation to the offering. This prospectus does not constitute a prospectus, product disclosure statement or other disclosure document under the Corporations Act 2001, or the Corporations Act, and does not purport to include the information required for a prospectus, product disclosure statement or other disclosure document under the Corporations Act.

Any offer in Australia of the shares may only be made to persons (the Exempt Investors) who are “sophisticated investors” (within the meaning of section 708(8) of the Corporations Act), “professional investors” (within the meaning of section 708(11) of the Corporations Act) or otherwise pursuant to one or more exemptions contained in section 708 of the Corporations Act so that it is lawful to offer the shares without disclosure to investors under Chapter 6D of the Corporations Act.

The shares applied for by Exempt Investors in Australia must not be offered for sale in Australia in the period of 12 months after the date of allotment under the offering, except in circumstances where disclosure to investors under Chapter 6D of the Corporations Act would not be required pursuant to an exemption under section 708 of the Corporations Act or otherwise or where the offer is pursuant to a disclosure document which complies with Chapter 6D of the Corporations Act. Any person acquiring shares must observe such Australian on-sale restrictions.

This prospectus contains general information only and does not take account of the investment objectives, financial situation or particular needs of any particular person. It does not contain any securities recommendations or financial product advice. Before making an investment decision, investors need to consider whether the information in this prospectus is appropriate to their needs, objectives and circumstances, and, if necessary, seek expert advice on those matters.

Notice to Prospective Investors in Hong Kong

The shares have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (i) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance; or (ii) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance. No advertisement, invitation or document relating to the shares has been or may be issued or has been or may be in the possession of any person for the purposes of issue, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the Securities and Futures Ordinance and any rules made under that Ordinance.

Notice to Prospective Investors in Japan

The shares have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) and, accordingly, will not be offered or sold, directly or indirectly, in Japan, or for the benefit of any Japanese Person or to others for re-offering or resale, directly or indirectly, in Japan or to any Japanese Person, except in compliance with all applicable laws, regulations and ministerial guidelines promulgated by relevant Japanese governmental or regulatory authorities in effect at the relevant time. For the purposes of this paragraph, "Japanese Person" shall mean any person resident in Japan, including any corporation or other entity organized under the laws of Japan.

Notice to Prospective Investors in Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, the shares were not offered or sold or caused to be made the subject of an invitation for subscription or purchase and will not be offered or sold or caused to be made the subject of an invitation for subscription or purchase, and this prospectus or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares, has not been circulated or distributed, nor will it be circulated or distributed, whether directly or indirectly, to any person in Singapore other than (i) to an institutional investor (as defined in Section 4A of the Securities and Futures Act (Chapter 289) of Singapore, as modified or amended from time to time, or SFA) pursuant to Section 274 of the SFA, (ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor, or
- a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities or securities-based derivatives contracts (each term as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the shares pursuant to an offer made under Section 275 of the SFA except:

- to an institutional investor or to a relevant person, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA,
- where no consideration is or will be given for the transfer,

- where the transfer is by operation of law, or
- as specified in Section 276(7) of the SFA.

In connection with Section 309B of the SFA and the Capital Markets Products, or CMP, Regulations 2018, the shares are prescribed capital markets products (as defined in the CMP Regulations 2018) and Excluded Investment Products (as defined in Monetary Authority of Singapore Notice SFA 04-N12: Notice on the Sale of Investment Products and Monetary Authority of Singapore Notice FAA-N16: Notice on Recommendations on Investment Products).

Notice to Prospective Investors in Canada

The shares may be sold only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. Any resale of the shares must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 (or, in the case of securities issued or guaranteed by the government of a non-Canadian jurisdiction, section 3A.4) of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

LEGAL MATTERS

The validity of the shares of common stock offered hereby will be passed upon for us by Latham & Watkins LLP. The validity of the shares of common stock offered hereby will be passed upon for the underwriters by Cooley LLP.

EXPERTS

The financial statements as of December 31, 2020 and December 31, 2019 and for each of the two years in the period ended December 31, 2020 included in this Prospectus have been so included in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of our common stock offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement, some items of which are contained in exhibits to the registration statement as permitted by the rules and regulations of the SEC. For further information with respect to us and our common stock, we refer you to the registration statement and its exhibits. Statements contained in this prospectus concerning the contents of any contract or any other document are not necessarily complete. If a contract or document has been filed as an exhibit to the registration statement, please see the copy of the contract or document that has been filed. Each statement in this prospectus relating to a contract or document filed as an exhibit is qualified in all respects by the filed exhibit. The exhibits to the registration statement should be reviewed for the complete contents of these contracts and documents. A copy of the registration statement and its exhibits may be obtained from the SEC upon the payment of fees prescribed by it. The SEC maintains a website at www.sec.gov that contains reports, proxy and information statements and other information regarding companies that file electronically with it.

We are not currently subject to the informational requirements of the Exchange Act. Upon completion of this offering, we will become subject to the information and periodic and current reporting requirements of the Exchange Act, and in accordance therewith, will file periodic and current reports, proxy statements and other information with the SEC. The registration statement, such periodic and current reports and other information can be obtained electronically by means of the SEC's website at *www.sec.gov*.

PROCEPT BioRobotics Corporation

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended December 31, 2019 and 2020, and

Six Months Ended June 30, 2020 and 2021 (unaudited)

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of PROCEPT BioRobotics Corporation

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of PROCEPT BioRobotics Corporation and its subsidiaries (the "Company") as of December 31, 2020 and 2019, and the related consolidated statements of operations and comprehensive loss, of redeemable convertible preferred stock and stockholders' deficit and of cash flows for the years then ended, including the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2020 and 2019, and the results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Change in Accounting Principle

As discussed in Note 2 to the consolidated financial statements, the Company changed the manner in which it accounts for leases in 2020.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits of these consolidated financial statements in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ PricewaterhouseCoopers LLP

San Jose, California
June 25, 2021, except for the effects of the par value change discussed in Note 2 to the consolidated financial statements, as to which the date is August 18, 2021

We have served as the Company's auditor since 2020.

PROCEPT BioRobotics Corporation
CONSOLIDATED BALANCE SHEETS
(in thousands, except per share data)

	December 31,		June 30,
	2019	2020	2021 (unaudited)
Assets			
Current assets:			
Cash and cash equivalents	$ 42,021	$ 100,130	$ 159,224
Accounts receivable, net	1,099	1,549	5,140
Inventory	6,284	6,924	10,012
Prepaid expenses and other current assets	1,332	1,653	2,138
Total current assets	50,736	110,256	176,514
Restricted cash	691	777	777
Property and equipment, net	8,273	8,274	6,456
Operating lease right-of-use assets, net	—	4,641	4,042
Intangibles asset, net	2,295	2,023	1,886
Other non-current assets	—	—	902
Total assets	$ 61,995	$ 125,971	$ 190,577
Liabilities, Redeemable Convertible Preferred Stock and Stockholders' Deficit			
Current liabilities:			
Accounts payable	$ 1,444	$ 1,240	$ 3,347
Accrued compensation	2,338	4,640	3,987
Note payable – current portion	—	4,551	—
Operating lease – current portion	—	1,708	1,960
Convertible preferred stock warrant liability	870	177	129
Other current liabilities	2,138	2,210	4,331
Total current liabilities	6,790	14,526	13,754
Note payable – non-current portion	23,224	44,407	49,490
Operating lease – non-current portion	—	4,096	3,088
Loan facility derivative liability	1,482	1,782	1,787
Deferred rent – non-current portion	1,068	—	—
Other non-current liabilities	200	200	200
Total liabilities	32,764	65,011	68,319
Commitments and contingencies (see Note 9)			
Redeemable convertible preferred stock issuable in series, $0.00001 par value;			
Authorized shares: 103,292, 128,174 and 149,300, at December 31, 2019 and 2020, and June 30, 2021 (unaudited), respectively			
Issued and outstanding shares: 99,739, 120,661 and 141,787 at December 31, 2019 and 2020, and June 30, 2021 (unaudited), respectively			
Aggregate liquidation preference: $174,994, $245,768 and $330,768 at December 31, 2019 and 2020, and June 30, 2021 (unaudited), respectively	173,068	243,854	328,564
Stockholders' deficit:			
Common stock, $0.00001 par value;			
Authorized shares: 152,500, 190,000 and 224,390 at December 31, 2019 and 2020, June 30, 2021 (unaudited), respectively			
Issued and outstanding shares: 10,879, 22,387 and 27,512 at December 31, 2019 and 2020, June 30, 2021 (unaudited), respectively	—	—	—
Additional paid-in capital	4,808	18,788	22,803
Accumulated other comprehensive income (loss)	4	(14)	(39)
Accumulated deficit	(148,649)	(201,668)	(229,070)
Total stockholders' deficit	(143,837)	(182,894)	(206,306)
Total liabilities, convertible redeemable preferred stock and stockholders' deficit	$ 61,995	$ 125,971	$ 190,577

The accompanying notes are an integral part of these consolidated financial statements.

PROCEPT BioRobotics Corporation
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS
(in thousands, except per share data)

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Revenue	$ 6,169	$ 7,717	$ 2,389	$ 15,668
Cost of sales	8,054	8,972	4,082	8,558
Gross profit	(1,885)	(1,255)	(1,693)	7,110
Operating expenses:				
Research and development	13,147	16,275	7,839	8,998
Selling, general and administrative	28,518	30,272	14,084	22,648
Total operating expenses	41,665	46,547	21,923	31,646
Loss from operations	(43,550)	(47,802)	(23,616)	(24,536)
Interest expense	(724)	(5,261)	(2,103)	(2,900)
Interest and other income (expense), net	2,299	44	(13)	34
Net loss	$ (41,975)	$ (53,019)	$ (25,732)	$ (27,402)
Net loss per share, basic and diluted	$ (4.00)	$ (3.05)	$ (1.92)	$ (1.11)
Weighted-average common shares used to compute net loss per share attributable to common shareholders, basic and diluted	10,486	17,398	13,396	24,775
Other comprehensive loss:				
Unrealized (loss) gain on cash equivalents	(239)	(18)	19	(25)
Comprehensive loss	$ (42,214)	$ (53,037)	$ (25,713)	$ (27,427)

The accompanying notes are an integral part of these consolidated financial statements.

PROCEPT BioRobotics Corporation
CONSOLIDATED STATEMENTS OF REDEEMABLE CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' DEFICIT
(in thousands)

	Redeemable Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount				
Balance at December 31, 2018	98,347	$ 171,275	9,790	$ —	$ 2,513	$ 243	$ (106,674)	$ (103,918)
Issuance upon exercise of warrants	1,392	1,793	—	—	—	—	—	—
Issuance upon exercise of options	—	—	1,089	—	301	—	—	301
Stock-based compensation expense	—	—	—	—	1,994	—	—	1,994
Unrealized loss on cash equivalents	—	—	—	—	—	(239)	—	(239)
Net loss	—	—	—	—	—	—	(41,975)	(41,975)
Balance at December 31, 2019	99,739	173,068	10,879	—	4,808	4	(148,649)	(143,837)
Conversion of redeemable convertible preferred stock to common stock	(7,000)	(9,520)	7,000	—	9,520	—	—	9,520
Issuance upon exercise of warrants	3,094	3,818	58	—	11	—	—	11
Issuance of redeemable convertible preferred stock, net of issuance costs	24,828	76,488	—	—	—	—	—	—
Issuance upon exercise of options	—	—	4,450	—	2,276	—	—	2,276
Stock-based compensation expense	—	—	—	—	2,173	—	—	2,173
Unrealized loss on cash equivalents	—	—	—	—	—	(18)	—	(18)
Net loss	—	—	—	—	—	—	(53,019)	(53,019)
Balance at December 31, 2020	120,661	243,854	22,387	—	18,788	(14)	(201,668)	(182,894)
Issuance of redeemable convertible preferred stock, net of issuance costs	21,126	84,710	—	—	—	—	—	—
Issuance upon exercise of options	—	—	5,125	—	2,640	—	—	2,640

Stock-based compensation expense	—	—	—	—	1,375	—	—	1,375
Unrealized loss on cash equivalents	—	—	—	—	—	(25)	—	(25)
Net loss	—	—	—	—	—	—	(27,402)	(27,402)
Balance at June 30, 2021 (unaudited)	141,787	$ 328,564	27,512	$ —	$ 22,803	$ (39)	$ (229,070)	$ (206,306)
Balance at December 31, 2019	99,739	$ 173,068	10,879	$ —	$ 4,808	$ 4	$ (148,649)	$ (143,837)
Issuance upon exercise of warrants	570	609	—	—	—	—	—	—
Issuance upon exercise of options	—	—	3,897	—	2,003	—	—	2,003
Stock-based compensation expense	—	—	—	—	1,006	—	—	1,006
Unrealized loss on cash equivalents	—	—	—	—	—	19	—	19
Net loss	—	—	—	—	—	—	(25,732)	(25,732)
Balance at June 30, 2020 (unaudited)	100,309	$ 173,677	14,776	$ —	$ 7,817	$ 23	$ (174,381)	$ (166,541)

The accompanying notes are an integral part of these consolidated financial statements.

PROCEPT BioRobotics Corporation
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Cash flows from operating activities:				
Net loss	$ (41,975)	$ (53,019)	$ (25,732)	$ (27,402)
Adjustments to reconcile net loss to cash used in operating activities:				
Depreciation and amortization	1,494	2,860	1,430	1,765
Stock-based compensation expense	1,994	2,173	1,006	1,375
Change in fair value of redeemable convertible preferred stock warrants and derivative liability	(1,196)	114	(91)	(43)
Non-cash lease expense	—	(157)	(6)	(158)
Inventory write-down	—	109	22	538
Amortization of net investment discount	(603)	—	—	—
Other non-cash expense	—	60	—	—
Changes in operating assets and liabilities:				
Accounts receivable, net	522	(511)	(172)	(3,591)
Inventory	(5,074)	(3,105)	(344)	(3,299)
Prepaid expenses and other current assets	556	(339)	(219)	(1,412)
Accounts payable	(260)	(205)	(962)	2,120
Accrued compensation	459	2,302	521	(653)
Accrued interest expense	288	1,049	676	532
Deferred revenue	(227)	127	46	431
Deferred rent	885	—	—	—
Other liabilities	(681)	199	(125)	1,690
Net cash used in operating activities	(43,818)	(48,343)	(23,950)	(28,107)
Cash flows from investing activities:				
Sales of short-term investments	23,830	—	—	—
Maturities of short-term investments	26,934	—	—	—
Purchases of property and equipment	(7,611)	(233)	(204)	(149)
Net cash provided by (used in) investing activities	43,153	(233)	(204)	(149)
Cash flows from financing activities:				
Proceeds from issuance of common stock from the exercise of stock options	301	2,288	2,002	2,640
Proceeds from issuance of note payable, net of issuance costs	24,533	24,685	24,685	—
Proceeds from the exercise of redeemable convertible preferred stock warrants	1,693	3,310	609	—
Proceeds from issuance of Series F redeemable convertible preferred stock, net of issuance costs	—	76,488	—	—
Proceeds from issuance of Series G redeemable convertible preferred stock, net of issuance costs	—	—	—	84,710
Net cash provided by financing activities	26,527	106,771	27,296	87,350
Net increase in cash, cash equivalents and restricted cash	25,862	58,195	3,142	59,094
Cash, cash equivalents and restricted cash				
Beginning of the period	16,850	42,712	42,712	100,907

End of the period	$ 42,712	$ 100,907	$ 45,854	$ 160,001
Reconciliation of cash, cash equivalents and restricted cash to balance sheets:				
Cash and cash equivalents	$ 42,021	$ 100,130	$ 45,077	$ 159,224
Restricted cash	691	777	777	777
Cash, cash equivalents and restricted cash in balance sheets	$ 42,712	$ 100,907	$ 45,854	$ 160,001
Supplemental cash flow information				
Interest paid	$ 397	$ 3,969	$ 1,627	$ 2,369
Non-cash investing and financing activities				
Embedded loan facility derivative liability in loan facility	$ 1,396	$ —	$ —	$ —
Transfer of evaluation units from inventory to property and equipment, net	$ 2,560	$ 2,822	$ 804	$ (439)
Property and equipment included in accounts payable and accrued expenses	$ 284	$ 210	$ 205	$ 226
Deferred offering costs included in accounts payable and other current liabilities	$ —	$ —	$ —	$ 856

The accompanying notes are an integral part of these consolidated financial statements.

PROCEPT BioRobotics Corporation

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Organization

Description of Business

PROCEPT BioRobotics Corporation (the "Company") was incorporated in the state of California in 2007 and its headquarters are located in Redwood City, California. In April 2021, the Company re-incorporated in the state of Delaware. The Company received U.S. Food and Drug Administration clearance in December 2017 to market its AquaBeam® Robotic System, an automated surgical robot providing tissue removal for the treatment of benign prostatic hyperplasia, a prostate gland enlargement condition.

Liquidity

As of December 31, 2020 and June 30, 2021 (unaudited), the Company had cash and cash equivalents of $100.1 million and $159.2 million, respectively, and an accumulated deficit of $201.7 million and $229.1 million, respectively. The Company has financed its operations with a combination of debt and equity financing arrangements. The Company expects its cash and cash equivalents, revenue and available debt financing arrangements, will be sufficient to fund its operations through at least the next twelve months from the issuance date of the consolidated financial statements. The Company has not achieved positive cashflow from operations to date and expects to continue incurring losses as it focuses on growing its business.

The COVID-19 pandemic and the resulting economic downturn are affecting business conditions in the industry in which the Company operates. In response to the pandemic, many state and local governments in the United States issued orders that temporarily precluded elective procedures in order to conserve scarce health system resources. The Company has taken necessary precautions to safeguard its employees, patients, customers, and other stakeholders from the COVID-19 pandemic, while maintaining business continuity to support its patients, customers and employees. The timing, extent and continuation of any increase in procedures, and any corresponding increase in sales of the Company's products, and whether there could be a future decrease in the current level of procedures as a result of the COVID-19 pandemic or otherwise, remain uncertain and are subject to a variety of factors.

2. Summary of Significant Accounting Policies

Basis of Preparation

The consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP") and pursuant to the rules and regulations of the United States Securities and Exchange Commission ("SEC"). These consolidated financial statements include the accounts of the Company and its consolidated subsidiaries. All intercompany balances and transactions have been eliminated upon consolidation.

Use of Estimates

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts and disclosures reported in the consolidated financial statements. Management uses significant judgment when making estimates related to its common stock valuation and related stock-based compensation, right-of-use lease asset, lease liability, the valuations of the redeemable convertible preferred stock warrant liability and loan facility derivative liability, as well as certain accrued liabilities. Management bases its estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities. Actual results could differ from those estimates.

Unaudited Interim Financial Statements

The accompanying balance sheet as of June 30, 2021, the statements of operations and comprehensive loss and cash flows for the six months ended June 30, 2020 and 2021, and the statements of redeemable convertible preferred

stock and stockholders' deficit as of June 30, 2020 and 2021, are unaudited. The financial data and other information disclosed in these notes to the financial statements related to June 30, 2021, and the six months ended June 30, 2020 and 2021, are also unaudited. The unaudited interim financial statements have been prepared on the same basis as the annual financial statements and, in the opinion of management, reflect all adjustments, which include only normal recurring adjustments, necessary to a fair statement of the Company's financial position as of June 30, 2021, and the results of its operations and cash flows for the six months ended June 30, 2020 and 2021. The results for the six months ended June 30, 2021, are not necessarily indicative of results to be expected for the year ending December 31, 2021, or for any other interim period or for any future year.

Par Value Change

On June 10, 2021, the Board of Directors and stockholders approved, and the Company filed, an amended and restated certificate of incorporation effecting a change in par value from $0.001 to $0.00001 per share of common stock and all redeemable convertible preferred stock. All issued and outstanding common stock and redeemable convertible preferred stock contained in the financial statements have been retroactively corrected to reflect this immaterial change in par value for all periods presented.

Cash, Cash Equivalents and Restricted Cash

The Company considers all highly liquid securities, readily convertible to cash, that mature within 90 days or less from the original date of purchase to be cash equivalents, which include money market funds.

Cash equivalents are considered available-for-sale marketable securities and are recorded at fair value, based on quoted market prices. Unrealized gains and losses are recorded in other comprehensive income (loss) and included as a separate component of stockholders' deficit.

Restricted cash is related to the Company's letter of credit for the lease of its corporate headquarters.

Fair Value of Financial Instruments

The Company measures certain financial assets and liabilities at fair value on a recurring basis, including cash and cash equivalents, accounts receivable, accounts payable and accrued liabilities, which approximate fair value due to their relatively short maturities as well as the redeemable convertible preferred stock warrant liability and loan facility derivative liability. Fair value is an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or a liability. A three-tier fair value hierarchy is established as a basis for considering such assumptions and for inputs used in the valuation methodologies in measuring fair value:

Level 1- Observable inputs such as quoted prices (unadjusted) for identical assets or liabilities in active markets.

Level 2- Other inputs that are based upon quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active and model-based valuation techniques for which all significant inputs are observable in the market or can be derived from observable market data.

Level 3- Unobservable inputs that are supported by little or no market activities, which would require the Company to develop its own assumptions.

The fair value hierarchy also requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value.

The following is a summary of cash and cash equivalents and other liabilities measured at fair value on a recurring basis (in thousands):

	December 31,								June 30,			
	2019				2020				2021			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
									(unaudited)			
Cash and cash equivalents:												
Cash	$ 8,499	$ —	$ —	$ 8,499	$ 1,502	$ —	$ —	$ 1,502	$ 8,557	$ —	$ —	$ 8,557
Cash equivalents	33,522	—	—	33,522	98,628	—	—	98,628	150,667	—	—	150,667
Total cash and cash equivalents	$ 42,021	$ —	$ —	$ 42,021	$ 100,130	$ —	$ —	$ 100,130	$ 159,224	$ —	$ —	$ 159,224
Preferred stock warrant liability	$ —	$ —	$ 870	$ 870	$ —	$ —	$ 177	$ 177	$ —	$ —	$ 129	$ 129
Loan facility derivative liability	$ —	$ —	$ 1,482	$ 1,482	$ —	$ —	$ 1,782	$ 1,782	$ —	$ —	$ 1,787	$ 1,787

Cash equivalents consist primarily of money market funds.

There were no transfers in and out of Level 3 during the years ended December 31, 2019 and 2020, and the six months ended June 30, 2021 (unaudited).

Redeemable Convertible Preferred Stock Warrants

The following table sets forth a summary of the changes in the estimated fair value of the Company's redeemable convertible preferred stock warrants, which represents financial instruments with valuations classified as Level 3. When a determination is made to classify a financial instrument within Level 3, the determination is based upon the significance of the unobservable inputs to the overall fair value measurement. However, Level 3 financial instruments typically include, in addition to the unobservable inputs, observable inputs (that is, components that are actively quoted and can be validated to external sources). Accordingly, the gain or loss in the table below includes changes in fair value due in part to observable factors that are part of the Level 3 methodology recognized in the statement of operations as a component of interest and other income or expense as appropriate (in thousands):

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Beginning of the period	$ 2,164	$ 870	$ 870	$ 177
Exercised	(98)	(508)	(120)	—
Change in fair value	(1,196)	(185)	(1)	(48)
End of the period	$ 870	$ 177	$ 749	$ 129

The fair value of the redeemable convertible preferred stock warrant liability was determined using the Black-Scholes option pricing model using the following assumptions:

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Expected life (years)	0.9	1.7	0.8	0.9
Expected volatility	53 %	68 %	61 %	60 %
Risk-free interest rate	1.6 %	0.1 %	0.1 %	0.5 %
Expected dividend rate	— %	— %	— %	— %

Loan facility derivative liability

In connection with the Company's loan facility, the Company is obligated to pay a fee upon the earlier occurrence of a defined liquidity event, including but not limited to, a merger or sale of our assets or voting stock, or achieving a $200 million trailing twelve months revenue target, in each case, by September 2029**.** The fee is calculated at the time of the liquidity event occurrence to be $1 million if only the first installment has been drawn, $2 million if the first two installments have been drawn, $2.4 million if the first three installments have been drawn, or $3 million if all four installments have been drawn, in each case, upon the occurrence of the liquidity event. The Company has determined this fee is a freestanding derivative instrument. The $1.4 million fair value of this loan facility derivative was recorded as a debt discount and liability on the date of issuance in connection with obtaining additional financing as applicable and will be revalued every reporting period until the earlier occurrence of a defined liquidity event or achieving a revenue target by September 2029 or termination of such fee arrangement.

The following table sets forth a summary of the changes in the estimated fair value of the Company's loan facility derivative liability, classified as Level 3 (in thousands):

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Beginning of the period	$ 86	$ 1,482	$ 1,482	$ 1,782
Issued	1,396	—	—	—
Change in fair value	—	300	216	5
End of the period	$ 1,482	$ 1,782	$ 1,698	$ 1,787

The fair value of the loan facility derivative liability was determined using a discounted cashflow calculation discounted at 10%.

Concentration of Credit Risk

Financial instruments, which potentially subject the Company to concentrations of credit risk, consist principally of cash equivalents and, to a lesser extent, accounts receivable. The Company believes that credit risk in its accounts receivable is mitigated by its credit evaluation process, relatively short collection terms and diversity of its customer base. The Company generally does not require collateral and losses on accounts receivable have historically been within management's expectations.

The Company's investment policy limits investments to certain types of debt securities issued by the U.S. government, its agencies, and institutions with investment-grade credit ratings, as well as corporate debt or commercial paper issued by the highest quality financial and non-financial companies, and places restrictions on maturities and concentration by type and issuer. The Company is exposed to credit risk in the event of a default by the financial institutions holding its cash and cash equivalents and issuers of investments to the extent recorded on the balance sheets. The Company has limited its credit risk associated with cash and cash equivalents by placing its investments with banks it believes are highly creditworthy and with highly rated investments.

Allowance for Doubtful Accounts

The Company provides for uncollectible accounts receivable by recording an allowance for doubtful accounts for balances deemed uncollectible. The Company evaluates the collectability of its accounts receivable based on known collection risks and historical experience. In circumstances where the Company is aware of a specific customer's inability to meet its financial obligations to the Company (e.g., bankruptcy filings, substantial downgrading of credit ratings), the Company records a specific allowance for bad debts against amounts due to reduce the carrying amount of accounts receivable to the amount it reasonably believes will be collected. The Company has not experienced any significant collection issues.

Inventory

Inventories are valued at the lower of cost, computed on a first-in, first-out basis, or net realizable value. The allocation of production overhead to inventory costs is based on normal production capacity. Abnormal amounts of idle facility expense, freight, handling costs, and consumption are expensed as incurred, and not included in overhead. The Company maintains provisions for excess and obsolete inventory based on management's estimates of forecasted demand and, where applicable, product expiration.

Property and Equipment and Intangible Assets

Property and equipment and Intangible Assets are stated at cost, less accumulated depreciation and amortization. Depreciation and amortization for property and equipment are determined using the straight-line method over the estimated useful lives of the respective assets, generally three to five years. The Company reclassifies inventory used at customer sites for evaluation purposes to property and equipment due to a limited history of sales of evaluation units. Amortization of intangible assets are determined using the straight-line method over the estimated useful lives, generally through the patent expiration date. Leasehold improvements are amortized on a straight-line basis over the shorter of their estimated useful lives or the term of the lease. Maintenance and repairs are charged to operations as incurred.

Impairment of Long-Lived Assets

Long-lived assets consist primarily of property and equipment and intangible assets, net, and are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If circumstances require that a long-lived asset be tested for possible impairment, the Company compares the undiscounted cash flows expected to be generated by the asset group to the carrying amount of the asset group. If the carrying amount of the long-lived asset is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying amount exceeds its fair value. The Company determines fair value using the income approach based on the present value of expected future cash flows or other appropriate measures of estimated fair value. The Company's cash flow assumptions consider historical and forecasted revenue and operating costs and other relevant factors. Since inception, the Company has not recorded impairment charges on its long-lived assets.

Deferred Offering Costs

The Company capitalizes, within other assets, certain legal, accounting and other third-party fees that are directly related to the Company's in-process equity financings, including its planned initial public offering, until such financings are consummated. After consummation of the equity financing, these costs are recorded as a reduction of the proceeds received as a result of the offering. Should a planned equity financing be abandoned, terminated or significantly delayed, the deferred offering costs are immediately written off to operating expenses. There were no deferred offering costs as of December 31, 2020 and $0.9 million as of June 30, 2021 (unaudited).

Deferred Revenue and Cost of Sales

The timing of revenue recognition may differ from the timing of invoicing to customers. The Company records deferred revenue when revenue will be recognized subsequent to invoicing. Service agreements are generally invoiced annually at the beginning of each coverage period and recorded as deferred revenue and recognized as revenue ratably over the coverage period. Deferred revenue that will be recognized during the 12 months following the balance sheet date is recorded as the current portion of deferred revenue, and the remaining portion, if any, would be recorded as non-current.

Deferred cost of sales consists of cost for inventory items that have been shipped, but not all revenue recognition criteria has been met. Deferred cost of sales is included with prepaid expenses and other current assets in the consolidated balance sheets. Costs of sales under service agreements are recognized as incurred.

Redeemable Convertible Preferred Stock

The Company records redeemable convertible preferred stock at fair value on the date of issuance, net of issuance costs. The redeemable convertible preferred stock is recorded outside of permanent equity because it contains liquidation features that are not solely within the Company's control. The Company determined that the carrying values of the redeemable convertible preferred stock should not be adjusted to the liquidation preferences because it is uncertain whether or when an event would occur that would obligate the Company to pay the liquidation preferences to holders of shares of redeemable convertible preferred stock. Subsequent adjustments to the carrying values of the redeemable convertible preferred stock to the liquidation preferences will be made only when it is probable that the redeemable convertible preferred stock will become redeemable.

Redeemable Convertible Preferred Stock Warrant Liability

The Company has issued freestanding warrants to purchase shares of redeemable convertible preferred stock to investors in connection with sales of certain of its redeemable convertible preferred stock. The Company classified these warrants as a derivative liability because they create a conditional obligation for the Company to repurchase its own shares for cash or other assets. The fair value of the warrants are recorded on the consolidated balance sheets at the issuance of the warrants and remeasured to fair value at each financial reporting date. The changes in the fair value of the warrants are recorded in the statement of operations as a component of interest and other income or expense as appropriate. The Company will continue to adjust the carrying value of the redeemable convertible preferred stock warrant liability for changes in the fair value of the warrants until the earlier of: the exercise of the warrants, at which time the liability will be reclassified to temporary equity or the expiration of the warrant, at which time the entire amount would be reversed and reflected in the consolidated statements of operations and comprehensive loss.

Loan Facility Derivative Liability

The Company has determined that its obligation to pay success fees to a lender upon a successful liquidation event or achieving a revenue target represents freestanding financial instruments. The instruments are classified as a non-current liability in the consolidated balance sheets and is subject to remeasurement at each financial reporting date. Any change in fair value is recognized through other income (expense) in the consolidated statements of operations and comprehensive loss.

Leases

For agreements with a term of more than twelve months, the Company determines if an agreement contains a lease at inception. Operating lease liabilities represent an obligation to make lease payments arising from the lease agreement. Operating lease liabilities are recognized at the lease commencement date based on the present value of lease payments over the remaining lease term. In determining the present value of lease payments, the Company estimates its incremental borrowing rate as the rate of interest that the Company would have to pay to borrow on a collateralized basis over a similar term, of an amount equal to the lease payments in a similar economic environment. Operating lease liabilities are included in the Company's consolidated balance sheet. Right-of-use assets represent our right to use an underlying asset for the lease term and are classified as non-current assets. Lease expense is recognized on a straight-line basis over the expected lease term in the Company's consolidated statements of operations and comprehensive loss.

Through December 31, 2019, the Company recorded the difference between rent paid and the straight-line rent as a deferred rent liability and leasehold improvements funded by landlord incentives or allowances are recorded as leasehold improvement assets and a corresponding deferred rent liability. Upon adoption of Accounting Standards Codification ("ASC 842") on January 1, 2020, the unamortized deferred rent liability has been reclassified to reduce the right-of-use asset.

The Company has not elected to separate lease and non-lease components for any leases within its existing classes of assets and, as a result, records a right-of-use asset and lease liability based on the present value of the future minimum lease payments over the term at commencement date. Variable lease payments are expensed as incurred. The Company has also elected to not apply the recognition requirement to any leases within its existing

classes of assets with a term of 12 months or less and does not include an option to purchase the underlying asset that the Company is reasonably certain to exercise.

The Company has lessor arrangements with customers for a fixed monthly fee with no non-lease components, typically for 3-12 months. These arrangements are accounted for as an operating lease in accordance with ASC 842. These arrangements and related revenue are immaterial to the periods presented.

Warranty

Warranty costs are accrued based on the Company's best estimates when management determines that it is probable a charge or liability has been incurred and the amount of loss can be reasonably estimated, including any recalls. The Company initiated voluntary recalls for a limited number of handpieces due to certain issues related to supply chain and manufacturing processes, of which the expense recognized is not material. While the Company believes that historical experience provides a reliable basis for estimating such warranty cost, unforeseen quality issues or component failure rates could result in future costs in excess of such estimates.

Revenue Recognition

Revenue is derived primarily from the sales of the AquaBeam® Robotic Systems, and handpieces that are for one-time use during each surgery using the AquaBeam Robotic System. The AquaBeam Robotic System contains both software and non-software components that are delivered together as a single product and generally contain a one-year warranty.

To determine revenue recognition for arrangements that the Company determines are within the scope of ASC Topic 606, *Revenue from Contracts with Customers* ("ASC 606"), the Company performs the following five steps: (i) identify the contract with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when, or as, the Company satisfies the performance obligations. The Company only applies the five-step model to contracts when it is probable that the Company will collect the consideration it is entitled to in exchange for the goods or services it transfers to the customer. At contract inception, once the contract is determined to be within the scope of ASC 606, the Company assesses the goods or services promised within each contract and determines those that are performance obligations and assesses whether each promised good or service is distinct based on the contract.

The contracts are typically in the form of an agreement and a purchase order from the customer. The Company's AquaBeam Robotic System sales generally contain multiple products and services and can include a combination of the following performance obligations: robotic system, handpieces and consumables, and service.

The Company determines the transaction price it expects to be entitled to in exchange for transferring the promised product to the customer, which is based on the invoiced price for the products. All prices are at fixed amounts per the sales agreement with the customer and there are generally no discounts, rebates or other price concessions or a right of return, once the agreement is signed.

For multiple-element arrangements, revenue is allocated to each performance obligation based on its relative standalone selling price. Standalone selling prices are based on observable prices at which the Company separately sells the products or services. If a standalone selling price is not directly observable, then the Company estimates the standalone selling price considering market conditions and entity-specific factors including, but not limited to, features and functionality of the products and services, geographies, and type of customer. The Company regularly reviews standalone selling prices and updates these estimates as necessary.

The Company recognizes revenue as the performance obligations are satisfied by transferring control of the product or service to a customer. The Company generally recognizes revenue for the performance obligations at the following points in time:

AquaBeam Robotic Systems - For systems (including system components and system accessories) sold directly to end customers, revenue is recognized when the Company transfers control to the customer, which is generally at

the time of delivery. Systems rented for a fixed monthly fee during an evaluation period, typically 3-12 months, are recognized as revenue straight-line during the lease term, in accordance with ASC 842, and are not material. For systems sold following an evaluation period, revenue is recognized generally once sales terms are mutually agreed (as the system is already installed at the customer site). For systems sold through distributors, revenue is recognized generally at the time of delivery. The Company's system arrangements generally do not provide a right of return. The systems are generally covered by a one-year warranty.

Hand pieces and other consumables - Revenue from sales of handpieces and other consumables is recognized when control is transferred to the customers, which generally occurs at the time of shipment but also occurs at the time of delivery.

Service - Service revenue, inclusive of the amounts associated with the AquaBeam Robotic System warranties, is recognized over the term of the service period, as the customer benefits from the services throughout the service period.

The Company has determined that certain promises in the multiple-element arrangements, such as installation, training and certain ancillary products, are immaterial, and/or do not represent separate performance obligations for which transaction price is allocated.

Revenue is recognized when the item is delivered, which is when control is transferred to the customer. Systems rented for a fixed monthly fee during an evaluation period, typically 3-12 months, are recognized as revenue straight line during the lease term, in accordance with ASC 842, and are not material. For systems sold following an evaluation or lease period, revenue is recognized once the sales terms are mutually agreed (as the system is already installed at the customer site). The timing of revenue recognition may differ from the timing of invoicing to customers. The Company records deferred revenue when revenue is recognized subsequent to invoicing, such as service contracts, which are recognized ratably as revenue over the performance period, which is not material.

The Company's typical payment terms are between approximately 30 to 90 days. The Company expenses shipping and handling costs as incurred and includes them in the cost of sales. In those cases where shipping and handling costs are billed to customers, the Company classifies the amounts billed as a component of revenue. Taxes collected from customers and remitted to governmental authorities are excluded from revenue. The Company expenses any incremental costs of obtaining a contract, including but not limited to, sales commissions, as and when incurred as the expected amortization period of the incremental costs would have been less than one year and are reported in selling, general and administrative expense in the statements of operations and comprehensive loss.

The following table presents revenue disaggregated by type and geography (in thousands):

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
U.S.				
System sales and rentals	$ 1,086	$ 2,334	$ 460	$ 9,330
Hand pieces and other consumables	982	1,699	478	3,274
Service	—	67	10	209
Total U.S. revenue	2,068	4,100	948	12,813
Outside of U.S.				
System sales and rentals	2,446	1,824	743	1,244
Hand pieces and other consumables	1,641	1,722	682	1,493
Service	14	71	16	118
Total outside of U.S. revenue	4,101	3,617	1,441	2,855
Total revenue	$ 6,169	$ 7,717	$ 2,389	$ 15,668

The following table presents revenue by significant geographical locations outside the United States for the periods indicated:

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Germany	28 %	31 %	24 %	*
Italy	19 %	*	*	*
Austria	*	*	18 %	*
Switzerland	*	*	14 %	*

* Less than 10% of total net revenues for the period indicated.

Cost of Sales

Cost of sales consists primarily of manufacturing overhead costs, material costs and direct labor, including stock-based compensation. A significant portion of the Company's cost of sales currently consists of manufacturing overhead costs. These overhead costs include the cost of quality assurance, material procurement, inventory control, facilities, warranty and field service, equipment and operations supervision and management. Cost of sales also includes depreciation expense for production equipment and purchased intangibles and certain direct costs such as shipping costs.

Research and Development

Research and development costs are expensed as incurred. Research and development costs consist primarily of engineering, product development, and regulatory affairs, consulting services, materials, depreciation and other costs associated with products and technologies being developed. These expenses include employee and non-employee compensation, including stock-based compensation, supplies, materials, quality assurance expenses, consulting, related travel expenses and facilities expenses.

Stock-Based Compensation

The Company maintains a payment equity incentive plan to provide long-term incentives for employees, consultants and members of the board of directors. The plan allows for the issuance of non-statutory and incentive stock options to employees and non-statutory stock options to consultants and non-employee directors.

The Company is required to determine the fair value of equity incentive awards and recognize compensation expense for all equity incentive awards made to employees and directors, including employee stock options. Stock-based compensation expense is recognized over the requisite service period in the statements of operations and comprehensive loss. The Company uses the straight-line method for expense attribution.

The valuation model used for calculating the fair value of awards for stock-based compensation expense is the Black-Scholes option-pricing model (the "Black-Scholes model"). The Black-Scholes model requires the Company to make assumptions and judgments about the variables used in the calculation, including the fair value of the Company's common stock, the expected term (weighted-average period of time that the options granted are expected to be outstanding), the expected volatility of common stock, an assumed risk-free interest rate and an expected dividend rate.

The fair value of the Company's common stock underlying the stock options has historically been determined by the Company's board of directors ("Board"). Because there has been no public market for our common stock, the Board has determined the fair value of the Company's common stock at the time of grant of the option by considering a number of objective and subjective factors, including valuations of comparable companies, sales of the

Company's redeemable convertible preferred stock, operating and financial performance and the general and industry-specific economic outlook. The Company uses the "simplified method" to determine the expected term of the stock option. Expected volatility is based on an average of the historical volatilities of the common stock of publicly-traded companies with characteristics similar to those of the Company. The risk-free rate is based on the U.S. Treasury yield curve in effect at the time of grant for periods corresponding with the expected term of the option. The Company has elected to account for forfeitures when they occur.

Common Stock Valuation

The Company's intent has been to grant all options with an exercise price not less than the fair value of its common stock underlying those options on the date of grant. The Company has determined the estimated fair value of its common stock at each valuation date in accordance with the guidelines outlined in the American Institute of Certified Public Accountants Practice Aid, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation* (the "Practice Aid"). The Company's board of directors, with the assistance of management, developed these valuations using significant judgment and taking into account numerous factors, including:

- valuations of its common stock with the assistance of independent third-party valuation specialists;
- the stage of development and business strategy, including the status of research and development efforts, of its products and product candidates, and the material risks related to its business and industry;
- the results of operations and financial position, including its levels of available capital resources;
- the valuation of publicly traded companies in the life sciences and medical device sectors, as well as recently completed mergers and acquisitions of peer companies;
- the prices of its redeemable convertible preferred stock sold to investors in arm's length transactions and the rights, preferences, and privileges of its redeemable convertible preferred stock relative to those of its common stock;
- the likelihood of achieving a liquidity event for the holders of its common stock, such as an initial public offering or a sale of the Company given prevailing market conditions;
- the inability of our stockholders to freely trade our common stock in the public markets, resulting in a discount to reflect the lack of marketability of our common stock based on the weighted-average expected time to liquidity.
- trends and developments in its industry; and
- external market conditions affecting the life sciences and medical device industry sectors.

The Company's board of directors determined the fair value of its common stock by first determining the enterprise value of the Company's business using the market approach, income approach or from the value implied by the latest round of equity financing, and then allocating the value among the various classes of its equity securities to derive a per share value of its common stock. The Practice Aid identifies various available methods for allocating enterprise value across classes and series of capital stock to determine the estimated fair value of common stock at each valuation date.

For all option grant dates through December 31, 2020 and June 30, 2021, the Board allocated the enterprise value based on the option pricing method ("OPM"). OPM treats the rights of the holders of preferred and common stock as equivalent to call options on any value of the enterprise above certain break points of value based upon the liquidation preferences of the holders of preferred stock, as well as their rights to participation and conversion. Thus, the estimated value of the common stock can be determined by estimating the value of its portion of each of these call option rights. When valuing options granted round the time of an equity financing that is considered arms-length, OPM derives the Company's equity value of a company from the price of the securities issued by the Company in the equity financing. Following the closing of this offering, the fair value of the Company's common stock will be determined based on the closing price of its common stock on The Nasdaq Global Market.

Advertising Expenses

The Company expenses the costs of advertising, including promotional expenses, as incurred. Advertising expenses were not significant.

Defined Contribution Plan

The Company has a defined contribution retirement savings plan under Section 401(k) of the Internal Revenue Code. This plan allows eligible employees to defer a portion of their annual compensation on a pre-tax basis. The Company is authorized to make matching contributions but has not made such contributions for the years ended December 31, 2019 and 2020, and the six months ended June 30, 2021 (unaudited).

Income Taxes

The Company accounts for income taxes under the liability method. Under this method, deferred tax assets and liabilities are determined based on the differences between the financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates that will be in effect when the differences are expected to reverse. Valuation allowances against deferred tax assets are established when necessary to reduce deferred tax assets to the amounts expected to be realized. Currently, the Company has recorded a full valuation allowance against its deferred tax assets and there is no provision for income taxes, as the Company has incurred operating losses to-date. The Company's policy is to record interest and penalties expense related to uncertain tax positions as a component of income tax expense in the statement of operations.

Net Loss

Basic net loss per share is computed by dividing the net loss by the weighted-average number of shares of common stock outstanding during the period. Diluted net loss per share is computed by dividing the net loss by the weighted-average number of shares of common stock and common stock equivalent shares from dilutive stock options and common stock warrants outstanding during the period. Because the Company has reported a net loss for all periods presented, diluted net loss per share is the same as basic net loss per share for those periods as all potentially dilutive securities were antidilutive in those periods.

The Company allocates no loss to participating securities because they have no contractual obligation to share in the losses of the Company. The shares of the Company's redeemable convertible preferred stock participate in any dividends declared by the Company and are therefore considered to be participating securities.

Net loss per share was determined as follows (in thousands, except per share amounts):

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Net loss	$ (41,975)	$ (53,019)	$ (25,732)	$ (27,402)
Weighted-average common stock outstanding	10,486	17,398	13,396	24,775
Net loss per share, basic and diluted	$ (4.00)	$ (3.05)	$ (1.92)	$ (1.11)

The following potentially dilutive securities outstanding have been excluded from the computations of weighted-average shares outstanding because such securities have an antidilutive impact due to losses reported (in common stock equivalent shares, in thousands):

	December 31,		June 30,	
	2019	2020	2020	2021
			(unaudited)	
Redeemable convertible preferred stock outstanding	99,739	120,661	100,309	141,787
Redeemable convertible preferred stock warrants	3,539	341	2,880	341
Common stock warrants	58	—	58	—
Common stock options	27,308	30,912	27,475	31,452
Total	130,644	151,914	130,722	173,580

Comprehensive Loss

Comprehensive loss consists of net loss and changes in unrealized gains and losses on cash equivalents and available-for-sale marketable securities. Accumulated other comprehensive income (loss) is presented in the accompanying balance sheets, when applicable.

Segment, Geographical and Customer Concentration

The Company operates as a single operating segment. The Company's chief operating decision maker, its Chief Executive Officer, reviews financial information on an aggregate basis for the purposes of allocating resources and evaluating financial performance. The Company's assets are primarily based in the United States.

One customer accounted for 19% of revenue during the year ended December 31, 2019. No customers accounted for more than 10% of revenue during the year ended December 31, 2020. Two customers accounted for 13% and 12% of revenue during the six months ended June 30, 2020 (unaudited). No customers accounted for more than 10% of revenue during the six months ended June 30, 2021 (unaudited).

The following table presents revenue by significant geographical locations outside the United States for the periods presented:

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Germany	28 %	31 %	24 %	*
Italy	19 %	*	*	*
Austria	*	*	18 %	*
Switzerland	*	*	14 %	*

* Less than 10% of total net revenues for the period indicated.

Three customers each accounted for 20%, 18%, and 11% of accounts receivable at December 31, 2019. Two customers each accounted for 22% and 13% of accounts receivable at December 31, 2020. One customer accounted for 11% of accounts receivable at June 30, 2021 (unaudited).

JOBS Act Accounting Election

The Company is an emerging growth company, as defined in the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. The Company has elected to avail itself of

this exemption and, therefore, for new or revised accounting standards applicable to public companies, the Company will be subject to an extended transition period until those standards would otherwise apply to private companies.

Recent Accounting Pronouncements

In August 2018, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement* ("ASU 2018-13"). The amendments on changes in unrealized gains and losses recognized in other comprehensive income categorized within Level 3, the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements, and the narrative description of measurement uncertainty should be applied prospectively in the initial fiscal year of adoption. All other amendments should be applied retrospectively to all periods presented upon their effective date. The Company adopted ASU 2018-13 as of January 1, 2020, which did not have a material impact on its consolidated financial statements.

In July 2018, the FASB issued ASU No. 2018-11, Leases (Topic 842): Targeted Improvements ("ASU 2018-11"). ASU 2018-11 provided an alternative implementation method in addition to the current modified retrospective transition method for ASU No. 2016-2, Leases: Amendments to the FASB Accounting Standards Codification ("ASU 2016-2"), issued in February 2016. Under ASU 2018-11, an entity may elect to initially apply the new lease standard at the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. Under ASU 2016-2, a lessee is required to recognize assets and liabilities for leases with lease terms of more than twelve months. ASU 2016-2 is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. The Company adopted ASC Topic 842, Leases, on January 1, 2020 using the modified retrospective transition method. In addition, the Company elected certain practical expedients permitted under the transition guidance, which allowed it to carryforward its historical long-term lease classification, its assessment on whether a contract is or contains a lease and the treatment of its initial direct costs for any leases that existed prior to the adoption of Topic 842. In determining the lease term at commencement date, any renewal or termination options are considered if they are reasonably assured of exercise. The Company has elected to exclude from its consolidated balance sheet any leases having a term of 12 months or less. The Company recorded a right-of-use leased asset of approximately $6.0 million and a corresponding lease liability of $7.4 million in its adoption of Topic 842. In addition, as of the adoption date, the Company derecognized a deferred rent obligation of $1.4 million. There was no cumulative effect adjustment upon the adoption of Topic 842.

In June 2016, the FASB issued ASU No. 2016-13, Financial Instruments—Credit Losses (Topic 326) Measurement of Credit Losses on Financial Instruments ("ASU 2016-13"), which requires an entity to utilize a new impairment model known as the current expected credit loss ("CECL") model to estimate its lifetime "expected credit loss" and record an allowance that, when deducted from the amortized cost basis of the financial assets and certain other instruments, including but not limited to available-for-sale debt securities. Credit losses relating to available-for-sale debt securities will be recorded through an allowance for credit losses rather than as a direct write-down to the security. ASU 2016-13 requires a cumulative effect adjustment to the balance sheet as of the beginning of the first reporting period in which the guidance is effective. In November 2019, the FASB issued ASU 2019-10, Financial Instruments—Credit Losses (Topic 326), Derivatives and Hedging (Topic 815) and Leases (Topic 842): Effective Dates, which defers the effective date of ASU 2016-13 to fiscal years beginning after December 15, 2022 for all entities except SEC reporting companies that are not smaller reporting companies. ASU 2016-13 will be effective for the Company beginning January 1, 2023. The Company is currently evaluating the impact of the adoption of ASU 2016-13 on its consolidated financial statements.

In December 2019, the FASB issued ASU No. 2019-12, Income Taxes (Topic 740), which simplifies the accounting for income taxes, primarily by eliminating certain exceptions to ASC 740. This standard is effective for fiscal periods beginning after December 15, 2021. The Company is currently evaluating this standard and the impact it may have on its consolidated financial statements.

3. Composition of Certain Consolidated Financial Statement Items

Inventory (in thousands):

	December 31,		June 30,
	2019	2020	2021
			(unaudited)
Raw materials	$ 2,244	$ 2,647	$ 3,263
Work-in-process	244	51	817
Finished goods	3,796	4,226	5,932
Total inventory	$ 6,284	$ 6,924	$ 10,012

Prepaid Expenses and Other Current Assets (in thousands):

	December 31,		June 30,
	2019	2020	2021
			(unaudited)
Inventory	$ 402	$ 553	$ 737
Software	240	375	557
Rent	209	245	—
Insurance	103	124	511
Other	378	356	333
Total prepaid expenses and other current assets	$ 1,332	$ 1,653	$ 2,138

As of June 30, 2021 (unaudited), other non-current assets consisted of deferred offering costs.

Property and Equipment, Net (in thousands):

	December 31,		June 30,
	2019	2020	2021
			(unaudited)
Computer equipment	$ 116	$ 203	$ 203
Laboratory and manufacturing equipment	2,499	2,405	2,564
Furniture and fixtures	37	37	37
Rental equipment	468	1,247	842
Leasehold improvements	4,941	4,941	4,941
Evaluation units	2,454	4,229	3,791
Total property and equipment	10,515	13,062	12,378
Less: accumulated depreciation and amortization	(2,242)	(4,788)	(5,922)
Total property and equipment, net	$ 8,273	$ 8,274	$ 6,456

Other Current Liabilities (in thousands):

	December 31,		June 30,
	2019	2020	2021
			(unaudited)
Accrued purchases	$ —	$ 432	$ 188
Interest	202	403	393
Professional services	502	339	799
Sales tax	90	302	398
Deferred revenue	106	233	664
Clinical trial expenses	477	47	61
Warranty expenses	188	—	560
Deferred rent	253	—	—
Accrued offering costs	—	—	601
Other	320	454	667
Total other current liabilities	$ 2,138	$ 2,210	$ 4,331

As of December 31, 2019 and 2020, and June 30, 2021 (unaudited), other non-current liabilities consisted of an asset retirement obligation for the facility lease.

Interest and Other Income (Expense), net (in thousands):

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Interest income	$ 1,149	$ 184	$ 138	$ 27
Decrease in fair value of preferred stock warrants	1,196	185	92	48
Increase in fair value of loan facility derivative liability	—	(300)	(216)	(5)
Other	(46)	(25)	(27)	(36)
Total interest and other income (expense), net	$ 2,299	$ 44	$ (13)	$ 34

4. Intangible Assets

In March 2019, the Company entered into a license agreement with HydroCision, Inc. This agreement grants the Company an exclusive, perpetual, irrevocable, worldwide, fully paid-up license to develop, manufacture and commercialize products in the field of urology using the patented technology and know-how controlled by HydroCision as of the effective date and as well as new patented technology developed by HydroCision that cover certain activities and improvements that relate to the use of fluid jet technology in connection with the licensed products during the period commencing on the effective date and ending on the earlier of the date that the Company ceases to use HydroCision's existing contract manufacturers and the third anniversary of the effective date. Also included is the right to utilize HydroCision's contract manufacturers, if desired. The consideration paid was a one-time upfront payment of $2.5 million, as well as allowing HydroCision (a reciprocal license) to use any new patented technology and know-how developed by the Company relating to the HydroCision patented technology and know-how in the field of urology for HydroCision use outside the field of urology. HydroCision will pay for any patent maintenance fees on HydroCision's licensed patents. As of December 31, 2020 and June 30, 2021 (unaudited), accumulated amortization was $0.5 million and $0.6 million, respectively, and the net carrying amount is expected to be amortized at a rate of $0.3 million per year until fully amortized.

Amortization expense for intangible assets for the years ended December 31, 2019 and 2020, was $0.2 million and $0.3 million, respectively, and $0.1 million during each of the six months ended June 30, 2020 and 2021 (unaudited).

5. Loan Facility

In September 2019, the Company entered into a loan facility for up to $75 million available in four installments. The Company borrowed $25 million in September 2019. An additional $25 million was borrowed in March 2020. The third installment of $10 million was originally available for draw through March 31, 2021 contingent upon achieving $20 million in trailing six months revenue. In January 2021, the third installment was amended to be available for draw through June 30, 2021 contingent upon achieving $6.4 million trailing six months revenue. The remaining $15 million was originally available for draw through June 30, 2021 and is contingent upon achieving $25 million in trailing six months revenue. In January 2021, this installment was amended to be available for draw through June 30, 2022. The facility bears an interest rate of 9.37%, which is 7.17% plus the greater of 2.2% or 30-day LIBOR. The initial term of the facility is 60 months with interest-only payments each month for 24 months followed by 36 months amortization of principal and interest. In January 2021, the interest-only period was amended to 36 months followed by 24 months amortization (principal and interest) beginning October 1, 2022 since the amended trailing six months target revenue of $6.4 million was achieved, and accordingly, the current portion of the amount due was reclassified to non-current. Upon drawing the final $15 million tranche, interest-only period is extended 12 months followed by 24 months amortization of principal and interest. If $50 million is raised in an IPO, interest-only payments are extended an additional 12 months followed by 24 months amortization of principal and interest. Substantially all assets of the Company are pledged as collateral. Commencing with the earlier of June 30, 2021 and the month following the funding of either the third or final installment, the Company is required to achieve revenues for the previous six months ended equal to the greater of (1) 70% of the forecast for the commensurate period, (2) $15 million if neither third or final installments have been drawn, (3) $20 million if the third but not final installment has been drawn and (4) $25 million if both the third and final installments have been drawn.

The loan facility includes certain fees payable to the lender recorded as a loan discount that are accrued and amortized to interest expense during the loan term. A 6% final payment fee of each funded tranche is payable at the earlier of prepayment or loan maturity and a 0.25% facility fee paid at each funded tranche. A prepayment fee was originally payable if the loan is paid before maturity in the amount of 3% of loans outstanding if paid in full during first 12 months, 2% if loan is paid in full during second 12 months, or 1% if loan is paid in full thereafter before maturity. In January 2021, the prepayment fee was removed as part of the amendments. In addition, the Company should pay the lender’s loan initiation fees and a fee upon the earlier occurrence of a defined liquidity event, including but not limited to, a merger or sale of the Company’s assets or voting stock, or achieving a $200 million trailing twelve months revenue target, in each case, by September 2029. The success fees are calculated at the time of the liquidity event occurrence to be $1 million if only the first installment has been drawn, $2 million if the first two installments have been drawn, $2.4 million if the first three installments have been drawn, or $3 million if all four installments have been drawn, in each case, upon the occurrence of the defined liquidity event. The Company determined that this obligation to pay success fees represents freestanding financial instruments.

The amendments in January 2021 were accounted for as a debt modification under ASC 470-50-40 as the changes in the debt terms are not considered substantial, and thus no gain or loss was recorded and a new effective interest rate was established based on the carrying value of the loan and the revised cash flows.

6. Redeemable Convertible Preferred Stock Warrant Liability

Warrants to purchase shares of redeemable convertible preferred stock outstanding and exercisable are as follows (in thousands, except per share data):

Dates				Shares Outstanding at December 31,		June 30,		Fair Value at December 31,		June 30,
Issuance	Expiration	Series	Exercise Price	2019	2020	2021	Initial Value	2019	2020	2021
						(unaudited)				(unaudited)
Jul 2015	Jul 2020	D	$ 1.07	3,198	—	—	$ 2,463	$ 674	$ —	$ —
Jun 2017	Jun 2022	E	2.89	341	341	341	763	196	177	129
				3,539	341	341		$ 870	$ 177	$ 129

In October 2011 and April 2012, in connection with the issuance of convertible notes, the Company issued 1,267,287 redeemable convertible preferred stock warrants that were exercisable into Series B or the next round of redeemable convertible preferred stock. During the year ended December 31, 2019, warrants for 284,318 shares were exercised and none were outstanding at December 31, 2019.

In July 2015, in connection with the issuance of convertible notes, the Company issued 4,131,750 redeemable convertible preferred stock warrants that were exercisable into Series D redeemable convertible preferred stock immediately, with $1.07 exercise price and expiration in five years. During the years ended December 31, 2019 and 2020, warrants for 934,123 and 3,093,840 shares were exercised, respectively. During the six months ended June 30, 2020 (unaudited), warrants for 569,551 shares were exercised. During the six months ended June 30, 2021 (unaudited), no warrants were exercised.

In June 2017, in connection with the issuance of convertible notes, the Company issued 513,691 redeemable convertible preferred stock warrants that were exercisable into Series E or the next round of redeemable convertible preferred stock. During the years ended December 31, 2019 and 2020, warrants for 173,010 and zero shares were exercised, respectively. During the six months ended June 30, 2020 and 2021 (unaudited), no warrants were exercised.

7. Redeemable Convertible Preferred Stock

A summary of the Company's redeemable convertible preferred stock are as follows:

	December 31, 2019			December 31, 2020			June 30, 2021 (unaudited)		
Series	Shares Authorized	Shares Issued and Outstanding	Carrying Value (in thousands)	Shares Authorized	Shares Issued and Outstanding	Carrying Value (in thousands)	Shares Authorized	Shares Issued and Outstanding	Carrying Value (in thousands)
A	5,905,312	5,905,312	$ 3,130	5,905,312	5,247,459	$ 2,781	5,905,312	5,247,459	$ 2,781
B	8,763,247	8,748,576	6,369	8,748,576	7,333,073	5,404	8,748,576	7,333,073	5,404
C	7,433,046	7,433,046	7,073	7,433,046	7,433,046	7,073	7,433,046	7,433,046	7,073
D	39,268,941	36,071,314	36,607	39,165,154	35,850,828	36,879	39,165,154	35,850,828	36,879
E	41,921,856	41,581,175	119,889	41,921,856	39,968,857	115,229	41,921,856	39,968,857	115,229
F	—	—	—	25,000,000	24,828,160	76,488	25,000,000	24,828,160	76,488
G	—	—	—	—	—	—	21,125,900	21,125,881	84,710
Total	103,292,402	99,739,423	$ 173,068	128,173,944	120,661,423	$ 243,854	149,299,844	141,787,304	$ 328,564

In July 2020, an aggregate of 7.0 million shares of redeemable convertible preferred stock was converted to common stock as requested by the holder. The corresponding carrying value was reclassified from redeemable convertible preferred stock to common stock and additional paid in capital.

Series F Redeemable Convertible Preferred Stock

In July and August 2020, the Company issued 24,828,160 shares of Series F redeemable convertible preferred stock for gross proceeds of $77.0 million. Issuance costs totaled $0.5 million and were recorded an offset to gross proceeds.

Series G Redeemable Convertible Preferred Stock

In June 2021, the Company issued 21,125,881 shares of Series G redeemable convertible preferred stock for gross proceeds of $85.0 million. Issuance costs totaled $0.3 million and were recorded as an offset to gross proceeds. The liquidation preference per share is $4.0235 and all other preferences are pari-passu with Series D, E and F redeemable convertible preferred stock.

A summary of the Company's redeemable convertible preferred stock terms is as follows:

Series	Liquidation Preference Per Share	8% Dividend Per Share
A	$ 0.5300	$ 0.0424
B	0.6816	0.0545
C	0.9600	0.0768
D	1.0700	0.0856
E	2.8900	0.2312
F	3.1006	0.2480
G	4.0235	0.3219

The Company recorded its redeemable convertible preferred stock at fair value on the dates of issuance, net of issuance costs. A redemption event will only occur upon the liquidation or winding up of the Company, a greater than 50% change in control, or sale of substantially all of the assets of the Company. As the redemption event is outside the control of the Company, all shares of redeemable convertible preferred stock have been presented outside of permanent equity. Further, the Company has determined the carrying values of the redeemable convertible preferred stock should not be adjusted to the redemption value of such shares, since it is uncertain whether or when a redemption event will occur. Subsequent adjustments to increase the carrying values of the redeemable convertible preferred stock to the redemption values will be made when it becomes probable that such redemption will occur. As of December 31, 2019 and 2020, and June 30, 2021 (unaudited), it was not probable that such redemption would occur.

Dividends

The holders of the Series D, E, F and G redeemable convertible preferred stock, in preference to the holders of Series A, B and C redeemable convertible preferred stock and common stock, are entitled to receive noncumulative dividends at the rate of 8% per share of the original issuance price, when and as declared by the board of directors. After the payment of any dividends to holders of Series D, E, F and G redeemable convertible preferred stock, and in preference to the holders of common stock, the holders of Series A, B, and C redeemable convertible preferred stock shall be entitled to receive noncumulative dividends at the rate of 8% per share of the original issuance price, when and as declared by the board of directors. No dividends were declared and payable for the years ended December 31, 2019 and 2020, and six months ended June 30, 2021 (unaudited).

Liquidation

In the event of any liquidation, dissolution, or winding-up of the Company, including a merger, acquisition, or sale of assets, as defined in the articles of incorporation, each holder of Series G redeemable convertible preferred stock is entitled to receive a liquidation preference amount, plus any dividends declared but unpaid before any payments to holders of Series A, B, C, D, E or F redeemable convertible preferred stock and common stock. If the assets of the Company are insufficient to make payment in full to all Series G redeemable convertible preferred

stockholders, then the assets or consideration will be distributed ratably among such holders in proportion to the full liquidation preference amounts to which the holders would otherwise be entitled to.

After the full payment of the liquidation preference to the holders of Series G redeemable convertible preferred stock, each holder of Series F redeemable convertible preferred stock shall be entitled to be paid a liquidation preference amount, plus any dividends declared but unpaid before any payments to holders of Series A, B, C, D or E redeemable convertible preferred stock and common stock. If the assets of the Company are insufficient to make payment in full to all Series F redeemable convertible preferred stockholders, then the assets or consideration will be distributed ratably among such holders in proportion to the full liquidation preference amounts to which the holders would otherwise be entitled to.

After the full payment of the liquidation preference to the holders of Series F redeemable convertible preferred stock, each holder of Series E redeemable convertible preferred stock shall be entitled to be paid a liquidation preference amount, plus any dividends declared but unpaid before any payments to holders of Series A, B, C or D redeemable convertible preferred stock and common stock. If the assets of the Company are insufficient to make payment in full to all Series E redeemable convertible preferred stockholders, then the assets or consideration will be distributed ratably among such holders in proportion to the full liquidation preference amounts to which the holders would otherwise be entitled to.

After the full payment of the liquidation preference to the holders of Series E redeemable convertible preferred stock, each holder of Series D redeemable convertible preferred stock shall be entitled to be paid a liquidation preference amount, plus any dividends declared but unpaid before any payments to holders of Series A, B or C redeemable convertible preferred stock and common stock. If the assets of the Company are insufficient to make payment in full to all Series D redeemable convertible preferred stockholders, then the assets or consideration will be distributed ratably among such holders in proportion to the full liquidation preference amounts to which the holders would otherwise be entitled to.

After the full payment of the liquidation preference to the holders of Series D redeemable convertible preferred stock, each holder of Series A, B and C redeemable convertible preferred stock shall be entitled to be paid a liquidation preference amount, plus any dividends declared but unpaid before any payments to holders of common stock. If the assets of the Company are insufficient to make payment in full to all holders of Series A, B or C redeemable convertible preferred stock, then the assets or consideration will be distributed ratably among such holders in proportion to the full liquidation preference amounts to which the holders would otherwise be entitled to.

After the payment of the full liquidation preference to holders of redeemable convertible preferred stock, the remaining assets of the Company legally available for distribution shall be distributed ratably to the holders of the common stock.

Voting

Each holder has the right to one vote for each share of common stock into which such redeemable convertible preferred stock could be converted. So long as any shares of redeemable convertible preferred stock are outstanding, the Company shall not, without first obtaining the approval of more than 50% of the holders of redeemable convertible preferred stock then outstanding, be voting together as a separate class to (a) amend certificate of incorporation in any way that would materially and adversely alter or change the rights, preferences, or privileges of the series preferred stock or (b) increase the total number of authorized shares of any Series Preferred stock. Additionally, the vote of at least a majority of the holders of Series D, E, F and G redeemable convertible preferred stock is needed to materially and adversely affect the rights of such holders of each series, including increasing or decreasing the number of authorized shares of Series D, E, F and G redeemable convertible preferred stock, as applicable.

Redemption

The redeemable convertible preferred shares are not mandatorily redeemable.

Conversion

Each share of redeemable convertible preferred stock is convertible at the option of the holder into shares of common stock (subject to adjustment for certain events, including dilutive issuances, stock splits, and reclassifications) at a conversion price originally equal to the original issue price. The redeemable convertible preferred stock will also be converted automatically into shares of common stock (i) at any time upon the affirmative election of the holders of at least a majority of the outstanding shares of the redeemable convertible preferred stock or (ii) immediately upon the closing of an initial public offering under the Securities Act of 1933, as amended, with a common stock price of at least $4.63 per share (as adjusted per the Company's articles of incorporation) and at least $50.0 million in gross cash proceeds to the Company.

8. Stockholder's Equity

2008 Stock Plan

In 2008, the Company adopted the 2008 Stock Plan (the "Plan"), which allows for the granting of stock options and stock purchase rights to the employees, members of the board of directors, and consultants of the Company. Options granted under the Plan may be either incentive stock options ("ISOs") or nonqualified stock options ("NSOs"). ISOs may be granted only to the Company's employees, including officers and directors who are also employees. NSOs may be granted to employees and consultants.

Options under the Plan may be granted for periods of up to 10 years and at prices no less than 100% of the estimated fair value of the shares on the date of grant as determined by the board of directors, provided, however, that the exercise price of an ISO and NSO granted to a 10% shareholder shall not be less than 110% of the estimated fair value of the shares on the date of grant.

Granted options for newly hired employees usually vest over four years monthly with a one-year cliff vesting, and follow-on options vest monthly over four years with no cliff vesting. Options granted to consultants have various vesting schedules depending on the underlying consulting arrangement and anticipated period of service. Options granted under the Plan will expire starting August 2021. As of December 31, 2020 and June 30, 2021 (unaudited), there were 7.1 million and 5.4 million shares available for grant under the Plan, respectively.

A summary of the Company's stock option activity and related information are as follows (options in thousands):

	Year Ended December 31,				Six Months Ended June 30,	
	2019		2020		2021 (unaudited)	
	Options	Price	Options	Price	Options	Price
Outstanding, beginning of period	24,477	$ 0.63	27,308	$ 0.71	$ 30,912	$ 0.83
Granted	5,286	0.96	12,476	0.99	5,794	1.39
Exercised	(1,089)	0.28	(4,450)	0.51	(5,125)	0.52
Forfeited	(1,366)	0.74	(4,422)	0.86	(129)	0.95
Outstanding, end of period	27,308	0.71	30,912	0.83	31,452	0.98
Vested and expected to vest	27,308	0.71	30,912	0.83	31,452	0.98
Exercisable	14,062	0.51	13,519	0.64	13,398	0.82

As of December 31, 2019 and 2020, and June 30, 2021 (unaudited), the aggregate pre-tax intrinsic value of options outstanding and exercisable was $6.0 million, $6.9 million and $9.5 million, respectively, and options outstanding were $6.4 million, $9.9 million and $17.3 million, respectively. The aggregate pre-tax intrinsic value of options exercised was $0.7 million and $2.0 million during the years ended December 31, 2019 and 2020, respectively, and $1.7 million and $3.4 million during the six months ended June 30, 2020 and 2021 (unaudited), respectively. The aggregate pre-tax intrinsic value was calculated as the difference between the exercise prices of the underlying options and the estimated fair value of the common stock on the date of exercise. The total fair value of

options vested was $1.9 million and $1.6 million during the years ended December 31, 2019 and 2020, respectively, and $0.8 million and $1.7 million during the six months ended June 30, 2020 and 2021 (unaudited), respectively.

The Company estimates the fair value of stock-based compensation on the date of grant using the Black-Scholes option-pricing model. The Black-Scholes model determines the fair value of stock-based payment awards based on the fair market value of the Company's common stock on the date of grant and is affected by assumptions regarding a number of highly complex and subjective variables. These variables include, but are not limited to, the fair market value of the Company's common stock, volatility over the expected term of the awards and actual and projected employee stock option exercise behaviors. The Company has opted to use the "simplified method" for estimating the expected term of options, whereby the expected term equals the arithmetic average of the vesting term and the original contractual term of the option. Due to the Company's limited operating history and a lack of company specific historical and implied volatility data, the Company has based its estimate of expected volatility on the historical volatility of a group of similar companies that are publicly traded. When selecting these public companies on which it has based its expected stock price volatility, the Company generally selected companies with comparable characteristics to it, including enterprise value, stages of clinical development, risk profiles, position within the industry and with historical share price information sufficient to meet the expected life of the stock-based awards. The historical volatility data was computed using the daily closing prices for the selected companies' shares during the equivalent period of the calculated expected term of the share-based payments. The Company will continue to analyze the historical stock price volatility and expected term assumptions as more historical data for the Company's common stock becomes available. The risk-free rate assumption is based on the U.S. Treasury instruments with maturities similar to the expected term of the Company's stock options. The expected dividend assumption is based on the Company's history of not paying dividends and its expectation that it will not declare dividends for the foreseeable future.

Total stock-based compensation recognized, before taxes, are as follows (in thousands):

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Cost of sales	$ 106	$ 80	$ 50	$ 74
Research and development	442	543	263	307
Sales, general and administrative	1,446	1,550	693	994
Total stock-based compensation	$ 1,994	$ 2,173	$ 1,006	$ 1,375

The amount of unearned stock-based compensation relate to unvested employee stock-based payment awards as of December 31, 2020 and June 30, 2021 (unaudited) is $6.5 million and $8.9 million, respectively. The weighted-average period over which the unearned stock-based compensation is expected to be recognized as of December 31, 2020 and June 30, 2021 (unaudited) is 2.9 years and 3.0 years, respectively.

The fair value of the options granted to employees or directors was estimated as of the grant date using the Black-Scholes model assuming the weighted-average assumptions listed in the following table:

	Year Ended December 31,		Six Months Ended June 30,	
	2019	2020	2020	2021
			(unaudited)	
Expected life (years)	6.0	6.0	6.0	6.0
Expected volatility	37 %	41 %	37 %	49 %
Risk-free interest rate	1.9 %	0.9 %	1.3 %	1.1 %
Expected dividend rate	— %	— %	— %	— %
Weighted-average fair value	0.35	0.41	0.35	0.66

Common Stock Warrants

In May 2015, the Company issued warrants to purchase 58,466 shares of the Company's common stock in exchange for recruiting services. These warrants are exercisable immediately and expire on April 30, 2025. These common stock warrants of $15,000 were recorded as general and administrative expense and additional paid-in capital, as this warrant met the equity classification requirements. In November 2020, these warrants were fully exercised.

9. Commitments and Contingencies

Guarantees and Indemnifications

In the normal course of business, the Company enters into agreements that contain a variety of representations and provide for general indemnification. The Company's exposure under these agreements is unknown because it involves claims that may be made against the Company in the future. To date, the Company has not paid any claims or been required to defend any action related to its indemnification obligations. As of December 31, 2020 and June 30, 2021 (unaudited), the Company does not have any material indemnification claims that were probable or reasonably possible and consequently has not recorded related liabilities.

Facility Lease

In July 2013, the Company entered into a three-year lease agreement for its current facility located in Redwood City, California. In 2018, the Company expanded the lease space and extended the lease agreement through October 2023. The lease agreement provides for an escalation of rent payments each year and the Company records rent expense on a straight-line basis over the term of the lease. Rent is payable monthly. As of December 31, 2020 and June 30, 2021 (unaudited), the remaining future minimum lease payments under this lease is $6.7 million and $5.7 million, respectively.

In connection with the Company's adoption of ASC Topic 842, Leases, on January 1, 2020, the Company recorded a right-of-use leased asset of $6.0 million and a corresponding lease liability of $7.4 million and derecognized a deferred rent obligation of $1.4 million. The Company used its internal borrowing rate of 10% as its discount rate and the remaining operating lease term was 3.8 years. The results for the year ended December 31, 2020 are presented under Topic 842. The results for the years ended December 31, 2019, and other prior period amounts, were not adjusted and continue to be reported in accordance with our historical accounting under prior lease guidance, ASC Topic 840: Leases ("Topic 840").

Rent expense recognized under the lease, including additional rent charges for utilities, parking, maintenance, and real estate taxes, was $2.3 million and $2.9 million for the years ended December 31, 2019 and 2020, respectively, and $1.0 million for each of the six months ended June 30, 2020 and 2021 (unaudited).

As of December 31, 2020 and June 30, 2021 (unaudited), the Company has future commitments of $56.7 million and $55.7 million from debt repayments and office space under a non-cancelable operating lease expiring October 2023, respectively.

Future minimum annual operating lease and debt repayments are as follows (in thousands):

As of December 31, 2019	Minimum Lease Payments	Debt Repayments	Total
2020	$ 2,211	$ —	$ 2,211
2021	2,373	2,084	4,457
2022	2,444	8,333	10,777
2023	1,879	8,333	10,212
2024	—	6,250	6,250
Total minimum payments	$ 8,907	25,000	33,907
Less: amount representing interest/unamortized debt discount		(1,776)	(1,776)
Present value of future payments		23,224	32,131
Less: current portion		—	—
Non-current portion		$ 23,224	$ 32,131

As of December 31, 2020	Minimum Lease Payments	Debt Repayments	Total
2021	$ 2,179	$ —	$ 2,179
2022	2,445	6,250	8,695
2023	2,092	25,000	27,092
2024	—	18,750	18,750
Total minimum payments	6,716	50,000	56,716
Less: amount representing interest/unamortized debt discount	(912)	(1,042)	(1,954)
Present value of future payments	5,804	48,958	54,762
Less: current portion	(1,708)	(4,551)	(6,259)
Non-current portion	$ 4,096	$ 44,407	$ 48,503

As of June 30, 2021 (unaudited)	Minimum Lease Payments	Debt Repayments	Total
2021	$ 1,202	$ —	$ 1,202
2022	2,445	6,250	8,695
2023	2,092	25,000	27,092
2024	—	18,750	18,750
Total minimum payments	5,739	50,000	55,739
Less: amount representing interest/unamortized debt discount	(691)	(510)	(1,201)
Present value of future payments	5,048	49,490	54,538
Less: current portion	(1,960)	—	(1,960)
Non-current portion	$ 3,088	$ 49,490	$ 52,578

As of December 31, 2019 and 2020, June 30, 2021 (unaudited), the Company's security deposit is in the form of, and recorded as, restricted cash. In January 2021, in connection with the Company's amended loan agreement with modified terms, the interest-only period was modified from 24 months beginning October 1, 2021 to 36 months beginning October 1, 2022, and accordingly, the current portion of the amount due was reclassified to non-current.

10. Income Taxes

The Company did not record an income tax provision for both periods.

Reconciliation between the tax provision computed at the federal statutory income tax rate and the Company's actual effective income tax rate are as follows:

	Year Ended December 31,	
	2019	2020
Federal statutory tax rate	21 %	21 %
R&D tax credit	1	1
Stock-based compensation and other permanent differences	—	—
Change in valuation allowance	(22)	(22)
Total	— %	— %

The Company's income taxes are accounted for in accordance with authoritative guidance, which requires the use of the asset and liability method. Under this method, deferred income tax assets and liabilities are determined based upon the difference between the consolidated financial statement carrying amounts and the tax basis of assets and liabilities and are measured using the enacted tax rate expected to apply to taxable income in the years in which the differences are expected to be reversed.

Significant components of net deferred tax assets are as follows (in thousands):

	December 31,	
	2019	2020
Deferred tax assets:		
Net operating losses	$ 33,410	$ 42,331
Property and equipment	144	303
R&D tax credit	2,695	3,830
Stock-based compensation	450	490
Capitalized R&D expenses	—	3,109
Inventory	464	511
Lease liability	316	1,461
Accruals and reserves	598	1,144
Total deferred tax assets	38,077	53,179
Valuation allowance	(38,077)	(52,005)
Net deferred tax assets	—	1,174
Deferred tax liabilities:		
Right-of-use assets	—	(1,174)
Total deferred tax liabilities	—	(1,174)
Net deferred taxes	$ —	$ —

The Company has evaluated the positive and negative evidence bearing upon the realizability of its deferred tax assets. Based on the Company's history of operating losses, the Company has concluded that it is more likely than not that the benefit of its deferred tax assets will not be realized. The valuation allowance increased by $13.9 million during the year ended December 31, 2020.

As of December 31, 2019 and 2020, the Company has U.S. federal net operating loss ("NOL") carryforwards of approximately $134.7 million and $170.8 million, respectively, expiring beginning 2029. As of December 31, 2019 and 2020, the Company has U.S. state and local NOL carryforwards of approximately $77.8 million and $100.7 million respectively, expiring beginning 2028.

As of December 31, 2019 and 2020, the Company has federal research and development credit carryforwards of approximately $2.2 million and $3.1 million, respectively, available to reduce future taxable income, if any. As of December 31, 2019 and 2020, the Company has California research and development credit carryforwards of approximately $1.7 million and $2.5 million, respectively, available to reduce future taxable income, if any.

The federal research and development credit carryforwards expire beginning 2029 and California research and development credit carryforwards are indefinite.

Internal Revenue Code section 382 places a limitation (the “Section 382 Limitation”) on the amount of taxable income that can be offset by net operating carryforwards after a change in control of a loss corporation. Generally, after a change in control, a loss corporation cannot deduct operating loss carryovers in excess of the Section 382 limitation. The Company has not performed an analysis to determine if a limitation applies and whether the limitation would cause the net operating losses to expire unutilized.

The Company files federal, state, and foreign income tax returns. The tax periods 2008 through 2020 remain open in most jurisdictions. In addition, any tax losses that were generated in prior years and carried forward may also be subject to examination by respective authorities. The Company is not currently under examination by federal, state or foreign income tax authorities.

In March 2020, the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") was passed into law. The CARES Act includes several significant business tax provisions including modification to the taxable income limitation for utilization of NOLs incurred in 2018, 2019 and 2020 and the ability to carry back NOLs from those years for a period of up to five years, an increase to the limitation on deductibility of certain business interest expense, bonus depreciation for purchases of qualified improvement property and special deductions on certain corporate charitable contributions. The Company has analyzed the provision of the CARES Act and determined it did not have an impact on its consolidated financial statements due to the full valuation reserve.

A reconciliation of the change in the unrecognized tax benefit during the year is as follows (in thousands):

	December 31,	
	2019	2020
Beginning of year	$ 694	$ 986
Additions for tax positions related to:		
Current year	292	421
Prior years	—	—
End of year	$ 986	$ 1,407

As of December 31, 2020, the Company had a total of $1.4 million of gross unrecognized tax benefits, none of which would affect the effective tax rate upon realization. The Company currently has a full valuation allowance against its U.S. net deferred tax assets which would impact the timing of the effective tax rate benefit should any of these uncertain tax positions be favorably settled in the future.

The Company does not expect the unrecognized tax benefits to change significantly over the next twelve months. The Company will recognize interest and penalties accrued on any unrecognized tax benefits as a component of income tax expense. As of December 31, 2020, the Company has not accrued interest or penalties related to uncertain tax positions.

11. Subsequent Events

In connection with the preparation of the financial statements, the Company evaluated events subsequent to the balance sheet date as of December 31, 2020 through June 25, 2021, the date the financial statements were available for issuance. The Company has also evaluated subsequent events through August 18, 2021 for the effects of the par value change discussed in Note 2.

In January 2021, the Company amended its loan agreement with modified terms that include decreasing the revenue target for the $10.0 million third loan tranche from $20.0 million trailing 6 months revenue to $6.4 million. Since the Company met this revenue target, the interest-only period was modified from 24 months beginning October 1, 2021 to 36 months beginning October 1, 2022, and accordingly, the current portion of the amount due was reclassified to non-current. In addition, the prepayment fee was eliminated.

The amendments in January 2021 were accounted for as a debt modification under ASC 470-50-40 as the changes in the debt terms are not considered substantial, and thus no gain or loss was recorded and a new effective interest rate was established based on the carrying value of the loan and the revised cash flows.

In June 2021, the Company issued 21,125,881 shares of its Series G redeemable convertible preferred stock for gross proceeds of $85.0 million. Issuance costs totaled $0.3 million and were recorded as an offset to gross proceeds. The liquidation preference per share is $4.0235 and all other preferences are pari-passu with the Company's Series D, E and F redeemable convertible preferred stock.

In the event of any liquidation, dissolution, or winding-up of the Company, including a merger, acquisition, or sale of assets, as defined in the articles of incorporation, each holder of Series G redeemable convertible preferred stock is entitled to receive a liquidation preference amount, plus any dividends declared but unpaid before any payments to holders of Series A, B, C, D, E or F redeemable convertible preferred stock and common stock. If the assets of the Company are insufficient to make payment in full to all Series F redeemable convertible preferred stockholders, then the assets or consideration will be distributed ratably among such holders in proportion to the full liquidation preference amounts to which the holders would otherwise be entitled to.

Subsequent to December 31, 2020, the Company granted options for 5,794,000 shares of common stock, subject to service-based vesting conditions, with a weighted-average price of $1.39 per share to employees.

12. Subsequent Events (unaudited)

For the interim consolidated financial statements as of June 30, 2021, and for the six months then ended, the Company has evaluated events through August 18, 2021, which is the date the financial statements were available to be issued.

Subsequent to June 30, 2021, the Company granted options for 930,000 shares of common stock, subject to service-based vesting conditions, with a weighted-average price of $1.83 per share to employees.

Through and including , 2021 (the 25th day after the date of this prospectus) all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

Shares

Common Stock

P R O S P E C T U S

BofA Securities

Goldman Sachs & Co. LLC

Cowen

Guggenheim Securities

SVB Leerink

, 2021

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution

The following table sets forth all the costs and expenses, other than underwriting discounts, payable in connection with the sale of the shares of common stock being registered hereby. Except as otherwise noted, the Registrant will pay all of the costs and expenses set forth in the following table. All amounts shown below are estimates, except the SEC registration fee, the FINRA filing fee and the Nasdaq Global Market listing fee:

	Amount Paid or to Be Paid
SEC registration fee	$ 10,910
FINRA filing fee	15,500
Nasdaq Global Market listing fee	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Transfer agent and registrar fees	*
Miscellaneous expenses	*
Total	$ *

* To be filed by amendment.

Item 14. Indemnification of Directors and Officers

The Registrant is governed by the Delaware General Corporation Law, or DGCL. Section 145 of the DGCL provides that a corporation may indemnify any person, including an officer or director, who was or is, or is threatened to be made, a party to any threatened, pending or completed legal action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person was or is an officer, director, employee or agent of such corporation or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such officer, director, employee or agent acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the corporation's best interest and, for criminal proceedings, had no reasonable cause to believe that such person's conduct was unlawful. A Delaware corporation may indemnify any person, including an officer or director, who was or is, or is threatened to be made, a party to any threatened, pending or contemplated action or suit by or in the right of such corporation, under the same conditions, except that such indemnification is limited to expenses (including attorneys' fees) actually and reasonably incurred by such person, and except that no indemnification is permitted without judicial approval if such person is adjudged to be liable to such corporation. Where an officer or director of a corporation is successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to above, or any claim, issue or matter therein, the corporation must indemnify that person against the expenses (including attorneys' fees) which such officer or director actually and reasonably incurred in connection therewith.

The Registrant's amended and restated certificate of incorporation and amended and restated bylaws will authorize the indemnification of its officers and directors, consistent with Section 145 of the DGCL.

Reference is made to Section 102(b)(7) of the DGCL, which enables a corporation in its original certificate of incorporation or an amendment thereto to eliminate or limit the personal liability of a director for violations of the director's fiduciary duty, except (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing

violation of law, (iii) pursuant to Section 174 of the DGCL, which provides for liability of directors for unlawful payments of dividends of unlawful stock purchase or redemptions or (iv) for any transaction from which a director derived an improper personal benefit.

We have entered into indemnification agreements with each of our directors and officers. These indemnification agreements may require us, among other things, to indemnify our directors and officers for some expenses, including attorneys' fees, judgments, fines and settlement amounts incurred by a director or officer in any action or proceeding arising out of his or her service as one of our directors or officers, or any of our subsidiaries or any other company or enterprise to which the person provides services at our request.

We maintain a general liability insurance policy that covers certain liabilities of directors and officers of our corporation arising out of claims based on acts or omissions in their capacities as directors or officers.

In any underwriting agreement we enter into in connection with the sale of common stock being registered hereby, the underwriters will agree to indemnify, under certain conditions, us, our directors, our officers and persons who control us within the meaning of the Securities Act against certain liabilities.

Item 15. Recent Sales of Unregistered Securities

During the three years preceding the filing of this registration statement, we have issued the following securities which were not registered under the Securities Act of 1933, as amended:

1. In July 2020 and August 2020, we completed the sale of an aggregate of 24,828,160 shares of our Series F redeemable convertible preferred stock to certain investors at a purchase price of $3.1006 per share, for an aggregate purchase price of approximately $77.0 million. All of our shares of Series F redeemable convertible preferred stock will convert into shares of our common stock immediately prior to the closing of our initial public offering.

2. In June 2021, we completed the sale of an aggregate of 21,125,881 shares of our Series G redeemable convertible preferred stock to certain investors at a purchase price of $4.0235 per share, for an aggregate purchase price of approximately $85.0 million. All of our shares of Series G redeemable convertible preferred stock will convert into shares of our common stock immediately prior to the closing of our initial public offering.

3. Since January 1, 2018, we have granted stock options to employees, directors and consultants, covering an aggregate of 37,768,043 million shares of our common stock under our 2008 Stock Plan, at exercise prices ranging from $0.92 to $2.60 per share, and have issued 11,891,820 million shares of common stock upon exercise of stock options under our 2008 Stock Plan with an aggregate exercise price of $5.7 million.

The issuances of the securities in the transactions described above were deemed to be exempt from registration under the Securities Act in reliance upon Section 4(a)(2) of the Securities Act or Rules 506 and 701 promulgated thereunder. The securities were issued directly by the registrant and did not involve a public offering or general solicitation. The recipients of such securities represented their intentions to acquire the securities for investment purposes only and not with a view to, or for sale in connection with, any distribution thereof.

Item 16. Exhibits and Financial Statement Schedules

(a) Exhibits.

Exhibit No.	Exhibit Description
1.1*	Form of Underwriting Agreement.
3.1*	Form of Amended and Restated Certificate of Incorporation of the Registrant, to be effective upon the consummation of this offering.
3.2*	Form of Amended and Restated Bylaws of the Registrant, to be effective upon the consummation of this offering.
5.1*	Opinion of Latham & Watkins LLP.

10.1+	Offer Letter, by and between the Registrant and Reza Zadno, Ph.D., dated as of January 31, 2020.
10.2+	Offer Letter, by and between the Registrant and Kevin Waters, dated as of August 7, 2018.
10.3+	Offer Letter, by and between the Registrant and Hisham Shiblaq, dated as of March 21, 2019.
10.4*+	Amended and Restated 2008 Stock Plan.
10.4(a)*+	Form of Stock Option Agreement under the Amended and Restated 2008 Stock Plan.
10.5*	Form of Indemnification Agreement.
10.6	Amended and Restated Exclusive License Agreement, by and between the Registrant and AquaBeam LLC, dated as of September 13, 2019.
10.7	Loan and Security Agreement, by and between the Registrant and Oxford Finance LLC, dated as of September 25, 2019.
10.7(a)	First Amendment to Loan and Security Agreement, by and between the Registrant and Oxford Finance LLC, dated as of January 15, 2021.
10.7(b)	Second Amendment to Loan and Security Agreement, by and between the Registrant and Oxford Finance LLC, dated as of April 6, 2021.
10.8	Lease Agreement, by and between the Registrant and Westport Office Park LLC, dated as of July 15, 2013.
10.8(a)	First Amendment to Lease Agreement, by and between the Registrant and Westport Office Park LLC, dated as of March 2, 2016.
10.8(b)	Second Amendment to Lease Agreement, by and between the Registrant and Westport Office Park LLC, dated as of May 20, 2016.
10.8(c)	Third Amendment to Lease Agreement, by and between the Registrant and Westport Office Park LLC, dated as of April 4, 2018.
10.9	Amended and Restated Investor Rights Agreement, by and among the Registrant and the investors named therein and the founder named therein, dated June 10, 2021.
10.10*+	Form of Non-Employee Director Compensation Policy.
10.11*+	Form of 2021 Incentive Plan of the Registrant.
21.1	List of subsidiaries of the Registrant.
23.1	Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm.
23.2*	Consent of Latham & Watkins LLP (included in Exhibit 5.1).
24.1	Power of Attorney (included on signature page).

* To be filed by amendment.
\+ Indicates management contract or compensatory plan.

(b) Financial Statement Schedules.

Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or the notes thereto.

Item 17. Undertakings

The undersigned Registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

The undersigned Registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Redwood City, State of California on this 18th day of August, 2021.

PROCEPT BIOROBOTICS CORPORATION

By: /s/ Reza Zadno
Name: Reza Zadno, Ph.D.
Title: Chief Executive Officer

POWER OF ATTORNEY

We, the undersigned officers and directors of PROCEPT BioRobotics Corporation hereby severally constitute and appoint Reza Zadno and Kevin Waters, and each of them, with full power of substitution and resubstitution and full power to act without the other, as his or her true and lawful attorney-in-fact and agent to act in his or her name, place and stead and to execute in the name and on behalf of each person, individually and in each capacity stated below, and to sign any and all amendments (including post-effective amendments) to this registration statement (or any other registration statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as full to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them or their or his substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Reza Zadno Reza Zadno, Ph.D.	President, Chief Executive Officer and Director (principal executive officer)	August 18, 2021
/s/ Kevin Waters Kevin Waters	SVP, Chief Financial Officer (principal financial and accounting officer)	August 18, 2021
/s/ Frederic Moll Frederic Moll, M.D.	Director and Chair of the Board	August 18, 2021
/s/ Antal Desai Antal Desai	Director	August 18, 2021
/s/ Amy Dodrill Amy Dodrill	Director	August 18, 2021
/s/ Taylor Harris Taylor Harris	Director	August 18, 2021
/s/ Thomas Krummel Thomas Krummel, M.D.	Director	August 18, 2021
/s/ Rodney Perkins Rodney Perkins, M.D.	Director	August 18, 2021
/s/ Colby Wood Colby Wood	Director	August 18, 2021

PROCEPT

BIOROBOTICS

January 31, 2020

Reza Zadno, Ph.D.

Dear Reza,

On behalf of PROCEPT BioRobotics Corporation (the "***Company***") I am pleased to offer you the position of President, Chief Executive Officer, and member of the Board of Directors of the Company. You will report to the Board of Directors of the Company (the "***Board***") and you will be responsible for the overall direction of the Company, including the management team, directing financing activities, strategic and financial planning, and supervision of the Company commercial, R&D, manufacturing, and administrative operations.

You agree to the best of your ability and experience that you will at all times loyally and conscientiously perform all of the duties and obligations required of and from you pursuant to the express and implicit terms hereof, and to the reasonable satisfaction of the Company. During the term of your employment, you further agree that you will devote all of your business time and attention to the business of the Company, that the Company will be entitled to all of the benefits and profits arising from or incident to all such work services and advice, you will not render commercial of professional services of any nature to any person or organization, whether or not for compensation, without the prior written consent of the Board, and you will not directly or indirectly engage or participate in any business that is Competitive in nature with the business of the Company.

Terms of this offer include:

(1) **Compensation**

(a) Base Salary. Commencing on the Start Date (as defined below), your base salary will be $39,583.34 per month, which is equivalent to $475,000 annually, subject to applicable taxes and payroll deductions and withholdings. Your salary will be paid pursuant to the Company's standard payroll procedures. Your base salary will be reviewed as part of the Company's normal annual compensation review process.

(b) Bonus. You will be eligible to participate in the Company Bonus Plan with a total target bonus opportunity of 50% of your base salary for the calendar year 2020, which will be pro-rated based on your start date. Bonuses are subject to the terms of any Company Bonus Plan, determined by the Board in its sole discretion. Bonuses are typically paid on an annual basis after the calendar year close, if you are still employed on such date, and are based on achievement of specific corporate and/or individual performance goals. Bonuses are considered variable pay and are subject to all applicable taxes and withholdings. Whether you receive such a bonus, and the amount of any such bonus, shall be determined by the Board, in its sole discretion.

(c) Equity. Subject to approval by the Board, the Company anticipates granting you an option to purchase 6,370,425, shares of the Company's common stock at the fair market value as determined by the Board as of the date of grant (the "***Option***"). The anticipated Option will be governed by the terms and conditions of the Company's 2008 Stock Plan, as amended (the "***Plan***") and your grant agreement, and may include the following vesting schedule: 12/48ths of the total shares will vest on the one year anniversary of the vesting commencement date, and 1/48th of the total shares will vest each month thereafter on the same day of the month as the vesting commencement date (or if there is no corresponding day, on the last day of the month), subject to your Continuous Service (as defined in the Plan) as of each such date.

(2) **Change of Control and Severance Benefits**. Subject to approval by the Board, the Company anticipates entering into a Change of Control and Severance Agreement following your Start Date. The anticipated Change of Control and Severance Agreement will be governed by the terms and conditions of such written agreement and the Company anticipates it will include (a) twelve (12) months base salary and twelve (12) months expenses for continuing your health care coverage and that of any dependents who are covered at the time of separation at then-existing participation and coverage levels (the "***COBRA Premiums***") under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, upon termination of your employment without cause (not in connection with a change of control), and (b) twenty four (24) months base salary and eighteen (18) months COBRA Premiums, in addition to full acceleration of vesting of all unvested stock awards then held by you, upon termination of your employment without cause, within twelve (12) months following the effective date of a change of control.

(3) **Employee Benefits**. During your employment, you will be eligible to participate in the standard benefits plans offered to similarly situated employees by the Company from time to time, subject to plan terms and generally applicable Company policies. A full description of these benefits is available upon request.

(4) **Paid Time Off**. You will be eligible for twenty (20) days paid time off, and holidays in accordance with the Company's policies and practices. Such paid time off shall be scheduled and taken at the mutual convenience of you and the Board.

(5) **Background Check and Employment Verification**. This offer is contingent upon a reference check and satisfactory proof of your right to work in the United States, and if relevant or necessary for your job duties, also contingent upon a background check, which includes review of criminal records. You agree to assist as needed and to complete any documentation at the Company's request to meet these conditions.

(6) **Company Policies and Confidentiality**. As a Company employee, you will be expected to abide by Company rules and policies. As a condition of employment, you must sign and comply with the attached Employee Confidential Information and Inventions Assignment Agreement, which prohibits unauthorized use or disclosure of the Company's proprietary information, among other obligations. In addition, you agree to follow the Company's strict policy that employees must not disclose, either directly or indirectly, the terms of this agreement regarding compensation to any person, including other employees of the Company; provided, however, that you may discuss such terms with members of your immediate family and any legal, tax or accounting specialists who provide you with individual legal, tax or accounting advice.

In your work for the Company, you will be expected not to use or disclose any confidential information, including trade secrets, of any former employer or other person to whom you have an obligation of confidentiality. Rather, you will be expected to use only that information which is generally known and used by persons with training and experience comparable to your own, which is common knowledge in the industry or otherwise legally in the public domain, or which is otherwise provided or developed by the Company. You agree that you will not bring onto Company premises any unpublished documents or property belonging to any former employer or other person to whom you have an obligation of confidentiality. You hereby represent that you have disclosed to the Company any contract you have signed that may restrict your activities on behalf of the Company.

(7) **General Obligations**. As an employee, you will be expected to adhere to the Company's standards of professionalism, loyalty, honesty, reliability, and respect for all. PROCEPT is an equal opportunity employer and does not permit, nor will it tolerate, discrimination, bullying, or harassment of any employees, consultants, or related third parties on the basis of sex, race, color, religion, age, national origin or ancestry, marital status, veteran status, mental or physical disability, medical condition, sexual orientation or identification, pregnancy, childbirth or adoption, or any related medical condition, or any other status protected by applicable US law.

(8) **At Will Employment**. Your employment with the Company will be on an "at-will" basis, meaning either you or the company are free to terminate the employment relationship at any time for any reason, with or without cause or advance notice. Your employment at-will status can only be modified in a written agreement approved by the Board and signed by you and by an officer of the Company.

(9) **Arbitration of all Disputes**.

(a) **Agreement to Arbitrate**. To ensure the timely and economical resolution of disputes that may arise between you and the Company, both you and the Company mutually agree that pursuant to the Federal Arbitration Act, 9 U.S.C. §1-16, and to the fullest extent permitted by applicable law, you will submit solely to final, binding and confidential arbitration any and all disputes, claims, or causes of action arising from or relating to: **(i)** the negotiation, execution, interpretation, performance, breach or enforcement of this Agreement; or (ii) your employment with the Company (including but not limited to all statutory claims); or (iii) the termination of your employment with the Company (including but not limited to all statutory claims). **BY AGREEING TO THIS ARBITRATION PROCEDURE, BOTH YOU AND THE COMPANY WAIVE THE RIGHT TO RESOLVE ANY SUCH DISPUTES THROUGH A TRIAL BY JURY OR JUDGE OR THROUGH AN ADMINISTRATIVE PROCEEDING.**

(b) **Arbitrator Authority**. The Arbitrator shall have the sole and exclusive authority to determine whether a dispute, claim or cause of action is subject to arbitration under this section and to determine any procedural questions which grow out of such disputes, claims or causes of action and bear on their final disposition.

(c) **Individual Capacity Only**. All claims, disputes, or causes of action under this section, whether by you or the Company, must be brought solely in an individual capacity, and shall not be brought as a plaintiff (or claimant) or class member in any purported class or representative proceeding, nor joined or consolidated with the claims of any other person or entity. The Arbitrator may not consolidate the claims of more than one person or entity, and may not preside over any form of representative or class proceeding. To the extent that the preceding sentences in this section are found to violate applicable law or are otherwise found unenforceable, any claim(s) alleged or brought on behalf of a class shall proceed in a court of law rather than by arbitration.

(d) **Arbitration Process**. Any arbitration proceeding under this section shall be presided over by a single arbitrator and conducted by Judicial Arbitration and Mediation Services, Inc. **("*JAMS*")** in San Mateo County, California, under the then applicable JAMS rules for the resolution of employment disputes (available upon request and also currently available at http://www.lamsadr.com/rules-employment-arbitration/). You and the Company both have the right to be represented by legal counsel at any arbitration proceeding, at each party's own expense. The Arbitrator shall: (i) have the authority to compel adequate discovery for the resolution of the dispute; **(ii)** issue a written arbitration decision, to include the arbitrator's essential findings and conclusions and a statement of the award; and (iii) be authorized to award any or all remedies that you or the Company would be entitled to seek in a court of law. The Company shall pay all JAMS arbitration fees in excess of the amount of court fees that would be required of you if the dispute were decided in a court of law.

(e) **Excluded Claims**. This section shall not apply to any action or claim that cannot be subject to mandatory arbitration as a matter of law, including, without limitation, claims brought pursuant to the California Private Attorneys General Act of 2004, as amended, the California Fair Employment and Housing Act, as amended, and the California Labor Code, as amended, to the extent such claims are not permitted by applicable law to be submitted to mandatory arbitration and are not preempted by the Federal Arbitration Act (collectively, the "***Excluded Claims***"). In the event you intend to bring multiple claims, including one of the Excluded Claims listed above, the Excluded Claims may be publicly filed with a court, while any other claims will remain subject to mandatory arbitration.

(f) **Injunctive Relief and Final Orders**. Nothing in this section is intended to prevent either you or the Company from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration. Any final award in any arbitration proceeding hereunder may be entered as a judgment in the federal and state courts of any competent jurisdiction and enforced accordingly.

(10) **Miscellaneous**. This letter, together with your Employee Confidential Information and Inventions Assignment Agreement, forms the complete and exclusive statement of your employment agreement with the Company. it supersedes any other agreements or promises made to you by anyone, whether oral or written. Changes in your employment terms, other than those changes expressly reserved to the Company's discretion in this letter, require a written modification signed by an officer of the Company. If any provision of this offer letter agreement is determined to be invalid or unenforceable, in whole or in part, this determination shall not affect any other provision of this offer letter agreement and the provision in question shall be modified so as to be rendered enforceable in a manner consistent with the intent of the parties insofar as possible under applicable law. This letter may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act or other applicable law) or other transmission method and shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

Upon acceptance of our offer, your anticipated start date at the Company's headquarters in Redwood City, CA will be on February 1, 2020 ("***Start Date***").

Please sign and date this letter, and the enclosed Employee Confidential Information and Inventions Assignment Agreement and return them to me by January 31, 2020.

We look forward to your favorable reply and to a productive and enjoyable work relationship.

Sincerely,

/s/ Rodney Perkins

Rodney Perkins, M.D.
Chairman of the Board of Directors
PROCEPT BioRobotics Corporation

Accepted and Agreed:

/s/ Reza Zadno	02-10-20
Reza Zadno , Ph.D.	Date

Attachment: Employee Confidential Information and Inventions Assignment Agreement

PROCEPT

BIOROBOTICS

August 7, 2018

Kevin Waters

Re: Employment Terms

Dear Kevin:

On behalf of PROCEPT BioRobotics Corporation (the "Company"), I am very pleased to offer you the position of Chief Financial Officer of the Company, reporting to me. This letter agreement sets forth the terms and conditions of your employment with the Company. Please understand that this offer, if not accepted, will expire on August 13, 2018.

In your role as the Company's Chief Financial Officer, you will be responsible for leading the Company's finance department and you will work at our facility located at 900 Island Drive, Suites 101 & 210, in Redwood Shores, California. Of course, the Company may change your position, duties, and work location from time to time in its discretion.

In this exempt full-time position, you will earn a starting base salary of $375,000 annually (through the end of 2019), less regular payroll deductions and withholdings and this base salary will be paid semi-monthly pursuant to the Company's regular payroll policy. You will be eligible for paid time off and holidays. The Company will provide you with the opportunity to participate in the standard benefits plans currently available to other Company employees, subject to any eligibility requirements imposed by such plans. The Company may change compensation and benefits from time to time in its discretion. You will be covered by workers' compensation insurance and State Disability Insurance, as required by state law. You will also be reimbursed for all documented reasonable business expenses that are incurred in the ordinary course of business provided they comply with Company policy guidelines. Each year, you will be eligible to earn an annual incentive bonus equal to thirty five percent (35%) of your annual base salary (to be prorated for 2018 from your Start Date). Whether you receive such a bonus, and the amount of any such bonus, will be determined by the Board of Directors (the "Board") in its sole discretion, and will be based upon achievement of corporate and individual goals and other criteria to be determined by the Board. Any bonus will be paid within thirty (30) days after the Board's determination that a bonus will be awarded. You must be employed on the day that your bonus (if any) is paid in order to earn the bonus. Therefore, if your employment is terminated either by you or the Company for any reason prior to the bonus being paid, you will not have earned the bonus and no partial or prorated bonus will be paid.

Subject to approval by the Board at the first meeting in which stock options are granted following your Start Date (as defined below), the Company will grant you an option to purchase 1,236,663 shares of the Company's Common Stock (the "Option"), which is equivalent to nine tenths of one percent (0.9%) of the fully-diluted shares of the Company on that date, at fair market value as determined by the Board as of the date of grant. The Option will be subject to the terms and conditions of the Company's Equity Incentive Plan (the "Plan") and your option agreement. Your option agreement will include a four-year vesting schedule, pursuant to which twenty-five percent (25%) of your shares subject to the Option will vest after twelve months of employment with the Company, with the remaining shares vesting monthly thereafter, until either your Option is fully vested or your employment ends, whichever occurs first. Subject to Board approval and individual performance, you will have the opportunity to earn by the end of years 2019 and 2020 up to an additional 206,111 shares each year for a total of an additional 412,222

shares of the Company's Common Stock, which is equivalent to three tens of one percent (0.3%) of the fully-diluted shares of the Company.

You may terminate your employment with the Company at any time and for any reason whatsoever simply by notifying the Company. Likewise, the Company may terminate your employment at any time, with or without cause or advance notice. Your employment's at-will status can only be modified by a written agreement signed by you and by an authorized officer of the Company. Notwithstanding the foregoing, if at any time the Company terminates your employment without Cause, and other than as a result of your death or disability, or you resign for Good Reason, and provided such termination constitutes a "separation from service" (as defined under Treasury Regulation Section 1.409A-1(h), without regard to any alternative definition thereunder, a "Separation from Service"), then subject to your obligations below, you will be entitled to receive severance in an amount equal to three (3) months of your then current base salary, less all applicable withholdings and deductions, paid over such three (3) month period, on the schedule described below (the "Salary Continuation"). Furthermore, in the event such termination without Cause or resignation for Good Reason occurs within 12 months following a Corporate Transaction (as defined in the Plan) then, promptly upon such termination without Cause or for Good Reason, as applicable, you will be entitled to (i) the payment of 1.5 times your then annual base salary in full; (ii) the payment of 1.5 times your then eligible annual bonus amount in full and (iii) the vesting of your Option will immediately accelerate so as to be fully vested. In addition, subject to the satisfaction of your obligations below, the Company will pay your expenses for continuing your health care coverage and that of any dependents who are covered at the time of your Separation from Service at then-existing participation and coverage levels (the "COBRA Premiums") under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") for a period ending on the earlier of eighteen (18) months from the Separation from Service or the date on which you become eligible to be covered by the health care plans of another employer (the "COBRA Coverage Period"), so long as you timely elect and is eligible for such COBRA continuation coverage.

Your receipt of these severance benefits is conditional upon (a) your continuing to comply with your contractual obligations to the Company and (b) your delivering to the Company an effective, general release of claims in favor of the Company in a form acceptable to the Company within 60 days following your termination date. The Salary Continuation will be paid in equal installments based on the Company's regular payroll schedule and will be subject to applicable tax withholdings over the period outlined above following the date of your termination date; provided, however, that no payments will be made prior to the 60th day following your Separation from Service. On the 60th day following your Separation from Service, the Company will pay you in a lump sum the Salary Continuation and other severance benefits that you would have received on or prior to such date under the original schedule but for the delay while waiting for the 60th day in compliance with Code Section 409A and the effectiveness of the release, with the balance of the Salary Continuation and other severance benefits being paid as originally scheduled.

For the purposes of this letter, the term "Cause" means that one or more of the following has occurred (as reasonably determined by the Board, based on the information then known to it): (i) your willful failure to substantially perform your duties and responsibilities to the Company or deliberate violation of a Company policy; (ii) your commission of any act of fraud, embezzlement, dishonesty or any other willful misconduct that has caused or is reasonably expected to result in material injury to the Company; (iii) unauthorized use or disclosure by you of any proprietary information or trade secrets of the Company or any other party to whom you owe an obligation of nondisclosure as a result of his or her relationship with the Company; or (iv) your willful breach of any of your obligations under any written agreement or covenant with the Company. For the purposes of this letter, the term "Good Reason" means your resignation from employment with the Company within sixty (60) days after the effective date of the following (without your prior written consent) (i) a material reduction in job duties, responsibilities, title or authority inconsistent with your position with the Company; (ii) a material reduction your then current base salary, representing a reduction of more than 10% of your then current base salary; *provided*, that an across-the-board reduction in the salary level of all senior officers of the Company by the same percentage amount as part of a general salary level reduction shall not constitute such a material salary reduction; (iii) the relocation of your principal place of employment to a place that increases your one-way commute by more than 50 miles as compared

to your then current principal place of employment immediately prior to such relocation (iv) a material reduction in your target annual bonus opportunity; or (v) the Company's failure to obtain an agreement from any successor to the Company to assume and agree to perform the obligations under this agreement in the same manner and to the same extent that the Company would be required to perform, except where such assumption occurs by operation of law; *provided*, that you give written notice to the Company of the event forming the basis of the termination for Good Reason within 45 days after the date on which the Company gives you written notice of the Company's affirmative decision to take an action set forth in clause (i), (ii), (iii), (iv) or (v) above, the Company fails to cure such basis for the Good Reason resignation within 30 days after receipt of your written notice and you terminate your employment within 30 days following the expiration of the cure period.

As a Company employee, you will be expected to abide by Company rules and policies. As a condition of employment, you must sign and comply with the attached Employee Confidential Information and Inventions Assignment Agreement which prohibits unauthorized use or disclosure of Company proprietary information, among other obligations.

In your work for the Company, you will be expected not to use or disclose any confidential information, including trade secrets, of any former employer or other person to whom you have an obligation of confidentiality. Rather, you will be expected to use only that information which is generally known and used by persons with training and experience comparable to your own, which is common knowledge in the industry or otherwise legally in the public domain, or which is otherwise provided or developed by the Company. You agree that you will not bring onto Company premises any unpublished documents or property belonging to any former employer or other person to whom you have an obligation of confidentiality. You hereby represent that you have disclosed to the Company any contract you have signed that may restrict your activities on behalf of the Company.

You agree to follow the Company's strict policy that employees must not disclose, either directly or indirectly, the terms of this agreement regarding monetary compensation to any person, including other employees of the Company; provided, however, that you may discuss such terms with members of your immediate family and any legal, tax or accounting specialists who provide you with individual legal, tax or accounting advice.

This offer is contingent upon a background check clearance, reference check, and satisfactory proof of your right to work in the United States. You agree to assist as needed and to complete any documentation at the Company's request to meet these conditions.

This letter, together with your Employee Confidential Information and Inventions Assignment Agreement, forms the complete and exclusive statement of your employment agreement with the Company. It supersedes any other agreements or promises made to you by anyone, whether oral or written. Changes in your employment terms, other than those changes expressly reserved to the Company's discretion in this letter, require a written modification signed by an officer of the Company.

If you wish to accept employment at the Company under the terms described above, please sign and date this letter, and the enclosed Employee Confidential Information and Inventions Assignment Agreement and return them to me by August 13, 2018. If you accept our offer, we would like you to start on October 8, 2018 ("Start Date").

I am delighted to be able to extend this offer to you Kevin and I look forward to working with you. We all look forward to your favorable reply and to a productive and enjoyable work relationship.

Sincerely,

/s/ Nikolai Aljuri

Nikolai Aljuri, Ph.D.

President and Chief Executive Officer

I have read, understand, and accept this employment offer. Furthermore, in choosing to accept this offer, I agree that I am not relying on any representations, whether verbal or written, except as specifically set out within this letter.

ACCEPTED AND AGREED:

/s/ Kevin Waters

Kevin Waters

Date: 8-13-18

Attachment: Employee Confidential Information and Inventions Assignment Agreement

March 21, 2019

Hisham Shiblaq
Via Email

Re: Employment Terms

Dear Sham:

PROCEPT BIOBOTICS CORPORATION (the "***Company***") is pleased to offer you the position of Senior Vice President, Commercial Operations, on the following terms.

You will be responsible for leading the commercial sales and marketing organization and will report to the President and CEO. You will work at our facility located at 900 Island Drive, Redwood Shores, CA 94065. Of course, the Company may change your position, duties, and work location from time to time in its discretion.

Your base salary will be $300,000 on an annualized basis, less payroll deductions and withholdings, paid on the Company's normal payroll schedule. You will be eligible to participate in the Company Bonus Plan with a total target bonus opportunity of 45% of your base salary, which will be pro-rated based on your start date, subject to the terms of the Company Bonus Plan, Bonuses are typically paid on an annual basis after the calendar year close, if you are still employed on such date, and are based on the achievement of specific corporate and/or individual performance goals. Bonuses are considered variable pay and are subject to all applicable taxes and withholdings. Whether you receive such a bonus, and the amount of any such bonus, shall be determined by the Company's Board of Directors (the "***Board***"), in its sole discretion.

During your employment, you will be eligible to participate in the standard benefits plans offered to similarly situated employees by the Company from time to time, subject to plan terms and generally applicable Company policies. A full description of these benefits is available upon request. You will be eligible for paid time off and holidays in accordance with the Company's standard policies and practices and as permitted by your duties and responsibilities, and as approved in advance by your supervisor. The Company may change compensation and benefits from time to time in its discretion

Subject to approval by the Board, the Company anticipates granting you an option to purchase 899,442 shares of the Company's common stock (which as of today represents 0.6% of the total fully diluted capital of the Company), at the fair market value as determined by the Board as of the date of grant (the "***Option***"). The anticipated Option will be governed by the terms and conditions of the Company's 2008 Stock Plan (the "***Plan***") and your grant agreement, and may include the following vesting schedule: 10/46ths of the total shares will vest on the ten month anniversary of the vesting commencement date, and 1/46th of the total shares will vest each month thereafter on the same day of the month as the vesting commencement date (or if there is no corresponding day, on the last day of the month), subject to your Continuous Service (as defined in the Plan) as of each such date. Subject to approval by the Board and individual performance, you will have the opportunity to earn an option to purchase at least an additional 149,907 shares of the Company's common stock (which as of today represents 0.1% of the total fully diluted capital of the Company), by December 31, 2020, and an additional 149,907 shares of the Company's common stock (which as of today represents 0.1% of the total fully diluted capital of the Company), by December 31, 2021, in each case subject to the terms, stock plan and vesting schedule approved by the Board.

As a Company employee, you will be expected to abide by Company rules and policies. As a condition of employment, you must sign and comply with the attached Employee Confidential Information and Inventions Assignment Agreement, which prohibits unauthorized use or disclosure of the Company's proprietary information, among other obligations. In addition, you agree to follow the Company's strict policy that employees must not disclose, either directly or indirectly, the terms of this agreement regarding compensation to any person, including

other employees of the Company; provided, however, that you may discuss such terms with members of your immediate family and any legal, tax or accounting specialists who provide you with individual legal, tax or accounting advice.

In your work for the Company, you will be expected not to use or disclose any confidential information, including trade secrets, of any former employer or other person to whom you have an obligation of confidentiality. Rather, you will be expected to use only that information which is generally known and used by persons with training and experience comparable to your own, which is common knowledge in the industry or otherwise legally in the public domain, or which is otherwise provided or developed by the Company. You agree that you will not bring onto Company premises any unpublished documents or property belonging to any former employer or other person to whom you have an obligation of confidentiality. You hereby represent that you have disclosed to the Company any contract you have signed that may restrict your activities on behalf of the Company.

Normal business hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday. As an exempt salaried employee, you will be expected to work additional hours as required by the nature of your work assignments.

Your employment with the Company will be "at-will." You may terminate your employment with the Company at any time and for any reason whatsoever simply by notifying the Company. Likewise, the Company may terminate your employment at any time, with or without cause or advance notice. Your employment at-will status can only be modified in a written agreement signed by you and by an officer of the Company,

This offer is contingent upon a reference check and satisfactory proof of your right to work in the United States, and if relevant or necessary for your job duties, also contingent upon a background check, which includes review of criminal records. You agree to assist as needed and to complete any documentation at the Company's request to meet these conditions.

To ensure the rapid and economical resolution of disputes that may arise in connection with your employment with the Company, you and the Company agree that any and all disputes, claims, or causes of action, in law or equity, including but not limited to statutory claims, arising from or relating to the enforcement, breach, performance, or interpretation of this Agreement, your employment with the Company, or the termination of your employment, shall be resolved, to the fullest extent permitted by law, by final, binding and confidential arbitration conducted by JAMS or its successor, under JAMS' then applicable rules and procedures for employment disputes (available upon request and also currently available at http://www.iamsadr.com/rules-employment-arbitration/). **You acknowledge that by agreeing to this arbitration procedure, both you and the Company waive the right to resolve any such dispute through a trial by jury or judge or administrative proceeding**. In addition, all claims, disputes, or causes of action under this section, whether by you or the Company, must be brought in an individual capacity, and shall not be brought as a plaintiff (or claimant) or class member in any purported class or representative proceeding, nor joined or consolidated with the claims of any other person or entity. **You expressly waive any and all ability to maintain and/or participate as a member of a class in any class action that relates to a claim in any forum**. The arbitrator may not consolidate the claims of more than one person or entity, and may not preside over any form of representative or class proceeding. To the extent that the preceding sentences regarding class claims or proceedings are found to violate applicable law or are otherwise found unenforceable, any claim(s) alleged or brought on behalf of a class shall proceed in a court of law rather than by arbitration. This paragraph shall not apply to an action or claim brought in court pursuant to the California Private Attorneys General Act of 2004, as amended. You will have the right to be represented by legal counsel at any arbitration proceeding. The arbitrator shall: (a) have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be permitted by law; and (b) issue a written statement signed by the arbitrator regarding the disposition of each claim and the relief, if any, awarded as to each claim, the reasons for the award, and the arbitrator's essential findings and conclusions on which the award is based. The arbitrator shall be authorized to award all relief that you or the Company would be entitled to seek in a court of law. The Company shall pay all JAMS arbitration fees in excess of the administrative fees that you would be required to pay if the dispute were decided in a court of law.

Nothing in this letter agreement is intended to prevent either you or the Company from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration.

This letter, together with your Employee Confidential Information and Inventions Assignment Agreement, forms the complete and exclusive statement of your employment agreement with the Company. It supersedes any other agreements or promises made to you by anyone, whether oral or written. Changes in your employment terms, other than those changes expressly reserved to the Company's discretion in this letter, require a written modification signed by an officer of the Company. If any provision of this offer letter agreement is determined to be invalid or unenforceable, in whole or in part, this determination shall not affect any other provision of this offer letter agreement and the provision in question shall be modified so as to be rendered enforceable in a manner consistent with the intent of the parties insofar as possible under applicable law. This letter may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act or other applicable law) or other transmission method and shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

Please sign and date this letter, and the enclosed Employee Confidential Information and Inventions Assignment Agreement and return them to me by March 22, 2019, if you wish to accept employment at the Company under the terms described above. If you accept our offer, we would like you to start on March 25, 2019.

We look forward to your favorable reply and to a productive and enjoyable work relationship.

Sincerely,

/s/ Alaleh Nouri

Alaleh Nouri, Senior Vice President, General Counsel & Corporate Secretary

Understood and Accepted:

/s/ Hisham Shiblaq	3/21/19
Hisham Shiblaq	Date

Attachment: Employee Confidential Information and Inventions Assignment Agreement

AMENDED AND RESTATED EXCLUSIVE LICENSE AGREEMENT

This Amended and Restated Exclusive License Agreement (this "**Agreement**") is effective as of September 13, 2019 (the "**Effective Date**") by and between **AquaBeam LLC**, a California limited liability company having offices at 2995 Woodside Road, Suite 100, Woodside, California 94062 ("**AquaBeam**"), and **PROCEPT BioRobotics Corporation**, a California corporation having offices at 900 Island Dr #210, Redwood City, CA 94065 ("**Procept**"). AquaBeam and Procept may be referred to herein individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, AquaBeam owns certain Patent Rights (as defined below) listed in Exhibit A attached hereto.

WHEREAS, Procept desires to enter an exclusive license with AquaBeam under such Patent Rights, and AquaBeam desires to grant an exclusive license to Procept in the Field (as defined below) thereunder, all in accordance with the terms and conditions of this Agreement;

WHEREAS, in connection with Procept's activities in the Field, Procept has developed, and is developing, certain patents that claim priority to such Patent Rights, or that relate to AquaBeam's activities outside the Field, and wishes to assign or grant licenses to AquaBeam outside the Field under such patents;

WHEREAS, AquaBeam and Procept are parties to that certain Exclusive License Agreement dated December 10, 2008 (the "**Original Effective Date**"), as amended on October 28, 2011 (the "**First Amendment Date**") and March 4, 2019 (collectively as amended, the "**Original License Agreement**"); and

WHEREAS, the Parties now desire to amend and restate the Original License Agreement in its entirety to provide for certain additional rights of Procept in connection with the patents included within the Original License Agreement, as further set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the covenants and promises contained in this Agreement, and intending to be legally bound, the parties agree as follows:

AGREEMENT

In consideration of the mutual promises and covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, AquaBeam and Procept hereby agree as follows:

1. DEFINITIONS.

As used in this Agreement, (i) neutral pronouns and any derivations thereof shall be deemed to include the feminine and masculine and all terms used in the singular shall be deemed to include the plural and vice versa, as the context may require; (ii) the words "**hereof**" and "**hereunder**" and other words of similar import refer to this Agreement as a whole, including all exhibits, as the same may be amended from time to time, and not to any subdivision of this Agreement; (iii) the word "**including**" is not intended to be exclusive and means "including without limitation"; (iv) the word "**days**" means "calendar days," unless otherwise stated; (iv) "**Section**" refers to sections and subsections in this Agreement; (iv) descriptive headings are inserted for convenience of reference only and do not constitute a part of and shall not be used in interpreting this Agreement; and (v) the following capitalized terms shall have the following meanings:

1.1 "**Abandoned Cross-Field Infringement Action**" shall have the meaning given in Section 3.2.2(d).

1.2 "**Abandoned In-Field Infringement Action**" shall have the meaning given in Section 3.2.3(c).

1.3 "**Abandonment**" shall have the meaning given in Section 3.1.3(a).

1.4 "**Additional Licensee**" shall mean any Person, including any Affiliate of AquaBeam, that obtains an exclusive license under the Licensed Patents directly from AquaBeam, subject to the terms of Section 5.4.

1.5 "**Affiliate**" shall mean, with respect to a Party, any Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such Party. For purposes of this definition, "control" shall mean the possession of the power to cause the direction of the management and policies of a Party, whether through ownership of more than fifty percent (50%) of the outstanding voting securities of such Party, by contract or otherwise.

1.6 "**AquaBeam Product**" shall mean any item, service, work, device, component, process, contrivance, machine, instrument, apparatus, implement, equipment, technology or other product or component thereof (whether developed or commercialized by AquaBeam, its Affiliates or any Additional Licensee) the development, manufacture, use, sale or other exploitation of which, absent a license granted under this Agreement, would infringe a Procept Patent Valid Claim.

1.7 "**Bankrupt Party**" shall have the meaning given in Section 8.3.

1.8 "**Breaching Party**" shall have the meaning given in Section 8.2.

1.9 "**Confidential Information**" shall mean any and all Know-How and other non-public and proprietary materials, products, processes or information, including research, product plans, manufacturing processes, manufacturing or operating costs, services, software, hardware, customer lists, price lists, business plans, marketing plans or financial information, that is or are disclosed or supplied by a Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**") in connection with this Agreement. Disclosures by a Party's Affiliate shall be deemed disclosures by that Party, and disclosures to a Party's Affiliate shall be deemed disclosures to that Party.

Notwithstanding the foregoing, Confidential Information shall not include any part of the foregoing that the Receiving Party can prove:

1.9.1 was already known to the Receiving Party as evidenced by the Receiving Party's competent, contemporaneous written records, other than any portion of such information that was under an obligation of confidentiality at the time of its disclosure;

1.9.2 was generally available to the public or was otherwise part of the public domain at the time of disclosure of such information to the Receiving Party;

1.9.3 became generally available to the public or otherwise becomes part of the public domain after disclosure of such information to the Receiving Party, other than by breach of this Agreement by the Receiving Party or by anyone to whom the Receiving Party disclosed such information; or

1.9.4 was subsequently lawfully disclosed to the Receiving Party by a third party other than in breach of a confidentiality obligation of such third party to the Disclosing Party.

1.10 "**Cross-Field Infringement Action**" shall have the meaning given in Section 3.2.2(a).

1.11 "**Discontinued Patent**" shall have the meaning given in Section 3.1.3(a).

1.12 "**Dispute**" shall have the meaning given in Section 9.2.

1.13 "**Field**" shall mean all uses, including diagnostic, prophylactic, therapeutic and other uses, related to urology.

1.14 "**Foundational Patents**" shall mean the Patent Rights listed in Exhibit A attached hereto.

1.15 "**In-Field Infringement Action**" shall have the meaning given in Section 3.2.3(a).

1.16 "**Know-How**" shall mean inventions, ideas, discoveries, data, instructions, designs, concepts, drawings, prototypes, information, components, processes, methods, tools, developments, innovations, techniques,

materials, technology, protocols, procedures, results, formulae, templates, devices, assemblies, modules, algorithms, trade secrets, computer program code or other know-how, whether or not patentable, and invention disclosures, improvements, modifications or refinements thereof.

1.17 "**Licensed Patents**" shall mean: (a) the Foundational Patents and all Patent Rights that are assigned to AquaBeam pursuant to Section 2.1; and (b) all Patent Rights owned by AquaBeam that claim any methods, apparatus, or systems for the delivery of energy to tissue by directing a liquid fluid stream at the tissue and that are filed on or after the First Amendment Date until the earlier of (i) the tenth anniversary of the First Amendment Date or (ii) the date on which all or substantially all of AquaBeam's assets, stock or business is acquired by a third party. For clarity, as of the Effective Date, AquaBeam represents and warrants to Procept that it does not own any Patent Rights other than the Foundational Patents.

1.18 "**Licensed Product**" shall mean any item, service, work, device, component, process, contrivance, machine, instrument, apparatus, implement, equipment, technology or other product or component thereof the development, manufacture, use, sale or other exploitation of which, absent a license granted under this Agreement, would infringe a Valid Claim.

1.19 "**Non-Breaching Party**" shall have the meaning given in Section 8.2.

1.20 "**Patent Rights**" shall mean: (a) a pending application for a patent, including any provisional, converted provisional, continued prosecution application, continuation, divisional or continuation-in-part thereof; or (b) an issued, unexpired patent (with the term "patent" being deemed to encompass an inventor's certificate or invention disclosure), including any substitution, extension, registration, confirmation, reissue, re-examination, renewal, supplemental protection certificate or any like filing thereof.

1.21 "**Payment Amount**" shall have the meaning given in Section 3.1.2.

1.22 "**Person**" shall mean a natural person, partnership (general or limited), corporation, joint venture, business trust, limited liability company, cooperative, association or other form of business organization, trust, estate or any other entity, other than a governmental authority.

1.23 "**Pro Rata Percentage**" shall mean the percentage obtained by multiplying 100% by a fraction the numerator of which equals one (1) and the denominator of which equals the number of Persons (without duplication) included in the group consisting of Procept and all Additional Licensees (which percentage shall be adjusted whenever AquaBeam licenses the Licensed Patents to a new Additional Licensee). By way of example, if on the first anniversary of the Effective Date, AquaBeam has licensed rights under the Licensed Patents to Procept and three (3) Additional Licensees, the Pro Rata Percentage shall be 25% and at any time thereafter that AquaBeam licenses rights under the Licensed Patents to one (1) more Additional Licensee, the Pro Rata Percentage shall become 20%. As of the Effective Date, Procept is the only licensee of AquaBeam under the Licensed Patents and the Pro Rata Percentage at the Effective Date is 100%.

1.24 "**Procept Patents**" shall mean all Patent Rights owned by Procept as a result of its own research and development activities that claim any methods, apparatus, or systems for the delivery of energy to tissue by directing a liquid fluid stream at the tissue and that are filed on or after the Original Effective Date until the earlier of (a) the tenth anniversary of the First Amendment Date or (b) the date on which all or substantially all of Procept's assets, stock or business is acquired by a third party. For clarity, (i) Procept Patents shall not include any Patent Rights that are owned by Procept as a result of an acquisition or purchase of such Patent Rights from any Third Party and (ii) the Procept Patents as of the Effective Date are listed on Exhibit B hereto.

1.25 "**Procept Patent Valid Claim**" shall mean a claim (a) of an issued and unexpired patent within the Procept Patents that has not been disclaimed or found to be unpatentable, invalid or unenforceable by a final decision of a court or other authority from which no appeal has been taken or can be taken; or (b) of an application within the Procept Patents that has not been cancelled, withdrawn or abandoned or pending for more than eleven (11) years.

1.26 "**Senior Executives**" shall have the meaning given in Section 9.2.

1.27 "**Term**" shall have the meaning given in Section 8.1.

1.28 "**Valid Claim**" shall mean a claim (a) of an issued and unexpired patent within the Licensed Patents that has not been disclaimed or found to be unpatentable, invalid or unenforceable by a final decision of a court or other authority from which no appeal has been taken or can be taken; or (b) of an application within the Licensed Patents that has not been cancelled, withdrawn or abandoned or pending for more eleven (11) years.

2. LICENSED PATENTS; LICENSE.

2.1 Assignment by Procept. Procept does hereby expressly and irrevocably assign, convey and transfer to AquaBeam, without compensation, Procept's entire right, title and interest in and to any and all Patent Rights that claim priority to any of the Foundational Patents listed in Exhibit A, as amended. The foregoing assignment and transfer shall occur instantly and automatically upon Procept's acquisition of such Patent Rights and shall not require any further deeds or documents to be exchanged between Procept and AquaBeam; *provided*, *however*, that upon the request of AquaBeam, Procept shall execute and deliver (and have executed and delivered by its employees, consultants and agents) any and all declarations, applications, assignments and other documents, and provide all other assistance, that AquaBeam reasonably determines may be necessary or desirable to apply for, obtain, protect, perfect or enforce AquaBeam's ownership of all rights, title, and interest in and to such Patent Rights. All of the foregoing-described Patent Rights that are assigned to and owned by AquaBeam shall automatically be included within the scope of this Agreement as Licensed Patents.

2.2 Recordkeeping, Notice. Procept shall maintain, and shall cause its employees, agents and consultants to maintain, records in sufficient detail and in good scientific manner so as to be appropriate for patent, regulatory and/or scientific purposes, which records shall fully and properly reflect all Know-How discovered, created, developed, conceived, reduced to practice or otherwise generated by employees, agents and consultants of Procept. Procept shall require its employees, agents and consultants to disclose in writing to Procept all Know-How promptly after the development, making, conception or reduction to practice of such Know-How, and Procept shall ensure that all such employees, agents and consultants are bound by contract to assign all such Know-How to Procept. From time to time during the Term, the Parties shall update and revise Exhibit A to list any new Patent Right included within the Licensed Patents, whether as a continuation-in-part, renewal, substitution or the like of any of the Foundational Patents, or whether as a new patent application, inventor's certificate or invention disclosure assigned by Procept to AquaBeam and included within the Licensed Patents pursuant to Section 2.1.

2.3 Licenses Granted to Procept and to AquaBeam.

2.3.1 License to Procept. Subject to the terms of this Agreement, AquaBeam hereby grants to Procept an exclusive (even as to AquaBeam and its Affiliates), worldwide, royalty-free license, with the right to sublicense to multiple tiers, under the Licensed Patents to research, develop, use, promote, make, have made, market, offer to sell, sell, have sold, import, export, distribute and otherwise exploit Licensed Products in the Field (as the Field may be expanded as provided in Section 2.5).

2.3.2 License to AquaBeam. Subject to the terms of this Agreement, Procept hereby grants to AquaBeam an exclusive (even as to Procept and its Affiliates), worldwide, royalty-free license, with the right to sublicense to multiple tiers, under the Procept Patents to research, develop, use, promote, make, have made, market, offer to sell, sell, have sold, import, export, distribute and otherwise exploit AquaBeam Products outside the Field (as the Field may be expanded as provided in Section 2.5). Notwithstanding the foregoing, AquaBeam acknowledges the execution of the exclusive license agreement between Procept and HydroCision LLC dated March 4, 2019 (the "**HydroCision License**"), and agrees that with respect to Procept Patents that arise from the HydroCision License, the license granted to AquaBeam under this Section 2.3.2 shall be non-exclusive solely with respect to HydroCision in the fields of tenotomy, spinal fusion, spinal discectomy and thrombectomy.

2.3.3 Additional Licensees. Subject to the terms and conditions of this Agreement, and all of Procept's rights hereunder, AquaBeam may grant licenses under the Licensed Patents and AquaBeam's rights under the Procept Patents, to Additional Licensees outside the Field. AquaBeam shall notify Procept in writing within thirty (30) days following the grant of any license to an Additional Licensee, and shall include in such notice the

identity of the Additional Licensee, whether such license is exclusive or non-exclusive, and the fields of use in which such license has been granted.

2.4 Consideration. In consideration for the rights and licenses granted by AquaBeam to Procept hereunder, Procept shall pay patent prosecution and maintenance costs in accordance with Section 3.1.2.

2.5 Rights of First Negotiation. From the First Amendment Date until the earlier of (a) the tenth anniversary of the First Amendment Date or (b) the date on which all or substantially all of AquaBeam's assets, stock or business is acquired by a non-Affiliate third party, if AquaBeam or its Affiliate desires to grant to a non-Affiliate third party any license rights under the Licensed Patents in any field of use other than the Field ("**Other Field**"), AquaBeam or such Affiliate shall grant to Procept a first right of negotiation for such license rights in the Other Field. If AquaBeam desires to grant such license rights in the Other Field, AquaBeam or such Affiliate shall give Procept written notice of the same. Procept shall have thirty (30) days to determine and to notify AquaBeam or such Affiliate in writing whether Procept desires to negotiate license rights in such Other Field. Failure by Procept to provide such written notice to AquaBeam or such Affiliate within such thirty (30) day period shall be deemed to be a rejection by Procept of AquaBeam's or its Affiliate's offer to negotiate license rights in such Other Field. If Procept rejects (or is deemed to reject) AquaBeam's or such Affiliate's offer to negotiate for license rights in the Other Field, or if Procept accepts AquaBeam's or such Affiliate's offer to negotiate for such license rights within the 30-day period but AquaBeam (or its Affiliate, as the case may be) and Procept are unable, after negotiating in good faith, to reach agreement on license rights in such Other Field within sixty (60) days of the date Procept notified AquaBeam or its Affiliate of Procept's desire to negotiate license rights in such Other Field, then AquaBeam or its Affiliate shall have no further obligation to Procept with respect to license rights in such Other Field and AquaBeam or its Affiliate may, at any time thereafter, grant any license rights in such Other Field to any third party, subject to Section 5.4 hereof. AquaBeam shall ensure any agreement under which it grants rights to any Affiliate in any Licensed Patents requires such Affiliate agree to the provisions of this Section 2.5.

2.6 Residuals. The Parties acknowledge that Nikolai Aljuri, Ph.D. ("**Dr. Aljuri**") may use Residuals for the purposes (a) solely outside the Field and (b) to the extent provided by applicable law. Accordingly, subject to Dr. Aljuri's obligations of confidentiality and non-use as set forth in Article 4 of this Agreement and in his employment or other agreements with Procept, Procept hereby waives any obligation to the contrary solely for the benefit of Dr. Aljuri. For purposes of the foregoing, "**Residuals**" means any Know-How retained by Dr. Aljuri in his unaided memory, including information of general application, but excludes any reference or reliance on written, electronic or physical materials, data or documentation ("**Excluded Materials**").

2.7 No Other Rights; No Implied Licenses. Except as expressly granted and provided in this Agreement, under no circumstances shall either Party, as a result of this Agreement, obtain any ownership interest, license or other right in any Know-How, Patent Rights, trademarks, copyrights or other proprietary information or intellectual property rights of the other Party and no rights or licenses with respect to any such Know-How, Patent Rights, trademarks, copyrights or other proprietary information (including Excluded Materials) or intellectual property shall be deemed granted hereunder or in connection herewith. Without limiting the foregoing, no license or right is granted or deemed granted to Procept under the Licensed Patents outside the Field. For the avoidance of doubt, AquaBeam shall retain and reserves all rights that are not explicitly granted to Procept herein, including the sole and exclusive right to use and exploit Licensed Patents, including the right to grant licenses and sublicenses, exclusively or non-exclusively, to any Affiliate of AquaBeam or other Person for any use, purpose or application, outside the Field. With the exception of the Patent Rights described in the first sentence of Section 2.1, Procept shall have and retain all right, title and interest in and to (a) all Know-How discovered, created, developed, conceived, reduced to practice or otherwise generated by Procept or any of its employees, consultants or agents on or after the Original Effective Date, and (b) any and all Patent Rights other than those described in the first sentence of Section 2.1, including all Procept Patents, that claim, cover or are directed to any such Know-How in subclause (a), that are filed by Procept or any of its employees, consultants or agents on or after the First Amendment Date. For the avoidance of doubt, the Parties expressly acknowledge and agree that any discovery, idea, development, invention or improvement, and all intellectual property rights in any of the foregoing that is or has been discovered, created, developed, conceived, reduced to practice or otherwise generated following the Original Effective Date by Dr. Aljuri but for so long as he remains an employee of Procept, who is a co-founder of Procept and AquaBeam, either individually or jointly with other employees, consultants or agents of Procept, as a result of any activities of

Dr Aljuri in the Field or in connection with the practice of the Licensed Patents shall be deemed to have been created in his role as an employee of Procept, and not in any capacity as a co-founder of AquaBeam, and shall be subject to the terms of Dr Aljuri's agreements with Procept.

3. LICENSED PATENT MAINTENANCE AND ENFORCEMENT.

3.1 Prosecution and Maintenance.

3.1.1 Rights and Responsibilities. Except upon an Abandonment, AquaBeam shall be responsible for the preparation, filing, prosecution and maintenance of the Licensed Patents in every jurisdiction worldwide, and for determining strategy with respect thereto (collectively "**Prosecution and Maintenance**"), and for activities related to interferences, inter partes proceedings, reexaminations, reissues, oppositions, appeals, revocations, requests for patent term extension or other administrative proceedings (collectively "**Other Patent Proceedings**") relating to the Licensed Patents. Notwithstanding the foregoing, the Parties acknowledge and agree that in general, prior to and as of the Effective Date, Procept, and not AquaBeam, has been primarily responsible for all of the activities set forth in the preceding sentence in connection with the Licensed Patents and Procept Patents, and that in relation to such activities, Procept has acted with AquaBeam's consent, and has appropriately taken into account AquaBeam's comments and input in relation thereto and will continue to do so subject to the following:

(a) If at any time following the Effective Date, AquaBeam elects to resume control of such activities with respect to the Licensed Patents, it shall provide written notice to Procept referencing this Section 3.1.1 and the date after which it will resume such control. In such case, AquaBeam agrees to act in a commercially reasonable manner (taking into consideration its role as licensor to Procept and any Additional Licensees) with respect to all such activities. AquaBeam shall keep Procept apprised of any material and non-ministerial activities related to the Licensed Patents by providing Procept with copies of official actions, amendments and responses with respect to the Prosecution and Maintenance of the Licensed Patents. Procept shall have the right, at its expense, to make recommendations to AquaBeam concerning material activities related to the Prosecution and Maintenance of the Licensed Patents and AquaBeam shall take into account all good faith recommendations and incorporate all reasonable comments made by Procept with respect to such activities unless AquaBeam concludes in good faith that such comments would be likely to have a material adverse effect on the Licensed Patents, and notifies Procept of such belief and its reasonable basis therefor. AquaBeam may, subject to the foregoing obligation to incorporate Procept's comments, in its discretion, take into account the good faith recommendations of Additional Licensees with respect to the same, solely to the extent such comments apply to such Additional Licensee's fields of use, and provided that such comments are not reasonably likely to adversely impact Procept's rights in such Licensed Patents in the Field. In connection with any Other Patent Proceedings relating to the Licensed Patents, Procept shall have the right to be represented by its own counsel, and AquaBeam shall consider in good faith and incorporate Procept's reasonable comments in connection therewith, unless AquaBeam concludes in good faith that such comments would be likely to have a material adverse effect on the Licensed Patents, and notifies Procept of such belief and its reasonable basis therefor. Any input provided by Procept to AquaBeam with respect to the Prosecution and Maintenance of the Licensed Patents shall be deemed to be the Confidential Information of AquaBeam. Any dispute regarding incorporation of Procept's comments in connection with Prosecution and Maintenance or Other Patent Proceedings in connection with the Licensed Patents shall be escalated for resolution in accordance with Section 9.2.

(b) If, when Procept is conducting Prosecution and Maintenance, Procept may notify AquaBeam that it does not intend to file or continue the prosecution of a given Licensed Patent in one or more countries or jurisdictions outside the European Union (including the United Kingdom) or the United States (each, an "**Abandoned Jurisdiction**"). AquaBeam shall have fifteen (15) days following the date of Procept's notice to confirm in writing whether it wishes to file or continue prosecution of such Licensed Patent in such Abandoned Jurisdiction. If AquaBeam provides such notice, the Parties shall discuss and agree upon who continues to conduct the Prosecution and Maintenance in such Abandoned Jurisdiction, and (i) thereafter AquaBeam shall be solely responsible

for all costs and expenses (including attorneys' fees) associated with the Prosecution and Maintenance of such Licensed Patent in such Abandoned Jurisdiction, and (ii) the licenses to Procept under such Licensed Patent shall terminate, solely in such Abandoned Jurisdiction.

3.1.2 Payment of Fees.

(a) On a monthly basis during the Term, and to the extent not already paid by Procept, AquaBeam shall invoice Procept for the amount equal to the Pro Rata Percentage of all costs and expenses (including attorneys' fees) incurred after the Effective Date in connection with the Prosecution and Maintenance of the Licensed Patents in the preceding month (the "**Payment Amount**"). Procept shall pay the Payment Amount to AquaBeam within thirty (30) days of the date of invoice. Notwithstanding anything herein to the contrary, if Procept provides AquaBeam at least sixty (60) days prior written notice that it no longer desires to share the Pro Rata Percentage of the costs and expenses incurred after the effective date of such notice with respect to the Prosecution and Maintenance of any specific patent application or patent within the Licensed Patents, then from and after the effective date of such notice Procept shall have no further obligation for such costs and expenses and such patent application (and any patents arising therefrom) and/or patent shall be excluded from the Licensed Patents for all purposes hereunder. Any notice given in accordance with the prior sentence shall identify with specificity (i) the particular patent application(s) and/or patent(s) and (ii) the effective date thereof.

(b) If Procept is responsible for Prosecution and Maintenance activities for the Licensed Patents and there is any Additional Licensee(s), Procept shall invoice AquaBeam for an amount equal to the product of 1.00 minus the Pro Rata Percentage (represented as a percentage) times all costs and expenses (including attorneys' fees) incurred for such Prosecution and Maintenance.

(c) Any amounts outstanding more than sixty (60) days past the date of the invoice hereunder will be subject to a late fee equal to one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law, whichever is less, determined and compounded on a monthly basis from the date due until the date paid.

3.1.3 Abandonment.

(a) If AquaBeam decides to discontinue Prosecution and Maintenance of any Patent Right within the Licensed Patents for which it has resumed control pursuant to Section 3.1.1 (including a Patent Right in any specific country or jurisdiction) (a "**Discontinued Patent**"), then during the Term, AquaBeam shall give prompt written notice to Procept (and to any Additional Licensees) of AquaBeam's decision to so discontinue (an "**Abandonment**"), which notice shall, in any event, be given no later than sixty (60) days prior to the next deadline for any action that may be taken with respect to such Discontinued Patent with the applicable patent office. In such notice to Procept, AquaBeam shall inform Procept of the identity of all Additional Licensees, if not already notified to Procept. Procept shall then have the right, but not the obligation, to assume responsibility for the future Prosecution and Maintenance of such Discontinued Patent, subject to the remaining terms of this Section 3.1.3.

(b) Procept shall give prompt written notice to AquaBeam and all Additional Licensees (if any) whether Procept desires to assume responsibility for the future Prosecution and Maintenance of any Discontinued Patent. If Procept elects not to assume such prosecution responsibility, then AquaBeam may offer such right to any Additional Licensee, who may assume such responsibility subject to Procept's rights under Section 3.1.1. If Procept delivers such notice, then AquaBeam shall promptly assign to Procept the Discontinued Patent and Procept shall thereafter proceed with the Prosecution and Maintenance thereof at its sole cost and expense, subject to the rights of Additional Licensees (including the comment rights set forth in Section 3.1.1). For the sake of clarity, if AquaBeam rescinds its Abandonment prior to receiving notice of assumption of responsibility, then the terms of this Section 3.1.3 shall no longer apply and AquaBeam shall remain responsible for Prosecution and Maintenance of the applicable Discontinued Patent as provided in Section 3.1.1.

(c) In the event Procept undertakes responsibility for Prosecution and Maintenance of any Discontinued Patent in accordance with this Section 3.1.3, AquaBeam shall execute such documents of

transfer or assignment and perform such acts as may be reasonably necessary to transfer ownership of the Discontinued Patent to Procept (or any Additional Licensees electing to continue the Prosecution and Maintenance, if applicable) and shall reasonably cooperate to enable Procept or any such Additional Licensees to continue Prosecution and Maintenance of the Discontinued Patent; *provided*, *however*, Procept (and the Additional Licensees, as applicable) shall reimburse AquaBeam for all expenses incurred by AquaBeam in performing such acts and providing such cooperation. Following such assignment to Procept (or any Additional Licensee, if applicable), AquaBeam shall have no further rights in or license under the applicable Discontinued Patent.

(d) Notwithstanding the foregoing, AquaBeam may elect not to prepare and file in one or more jurisdiction a patent application that would become a Licensed Patent without having such potential patent application be deemed to be a Discontinued Patent. However, Procept may request that AquaBeam file and pursue Prosecution and Maintenance of a patent application that would become a Licensed Patent in any jurisdiction where AquaBeam is not then-currently prosecuting such patent application if, in Procept's reasonable judgment, such filing and Prosecution and Maintenance is necessary or useful for Procept's exercise of its license in the Field under this Agreement. If Procept makes such request and AquaBeam declines to file and pursue Prosecution and Maintenance of such patent application in such jurisdiction, Procept shall have the right to require AquaBeam to pursue such Prosecution and Maintenance in such jurisdiction provided that Procept shall reimburse AquaBeam within thirty (30) following receipt of an invoice for all reasonable expenses to be incurred by AquaBeam related thereto, provided that AquaBeam shall have no obligation to continue any such Prosecution and Maintenance activities in such jurisdiction if Procept fails to make such payments in a timely fashion.

3.2 Infringement of Licensed Patents by a Third Party.

3.2.1 Notice. During the Term, each Party shall notify the other Party in writing of any actual or suspected infringement by a third party of the Licensed Patents as soon as practicable after such Party becomes aware of such infringement. Such written notice shall set forth the facts of the infringement in reasonable detail and shall include all available evidence supporting such known or suspected infringement.

3.2.2 Ex-Field and Cross-Field Infringement Action.

(a) If infringement or potential infringement by a third party of the Licensed Patents is occurring entirely outside the Field AquaBeam shall have the first right, but not the obligation, to institute, prosecute and control an action against such third party for such infringement of Licensed Patents, unless Procept notifies AquaBeam in writing within sixty (60) days of becoming aware of such infringement that it reasonably believes that AquaBeam's institution and control of such action would materially adversely impact Procept's rights in the Licensed Patents. If AquaBeam elects to prosecute such an infringement action, AquaBeam shall be entitled to employ counsel of its choosing and shall control all aspects of such action, including the right to enter into any settlement, consent judgment or other voluntary final disposition respecting such action, *provided* that (i) AquaBeam shall keep Procept reasonably informed of the progress of such action in a timely fashion, and shall consider and incorporate Procept's comments in good faith in connection with any aspect of such action that is reasonably likely to impact the Licensed Patents (and Procept's rights thereunder) in the Field, and (ii) AquaBeam shall not enter into any settlement of an infringement action outside the Field that would materially adversely affect Procept's rights or interests (including by any action that would impact the validity of any claim of a Licensed Patent) without the written consent of Procept, which consent shall not be unreasonably withheld.

(b) If infringement or potential infringement by a third party of the Licensed Patents is occurring both within and outside the Field (a "**Cross-Field Infringement Action**"), then (i) if at such time AquaBeam nor any Additional Licensee is developing or commercializing any products that are covered by the Licensed Patents, Procept will have the first right, but not the obligation to control such Cross Field Infringement Action, and (ii) if AquaBeam or any Additional Licensee is at such time developing or commercializing any products that are covered by the Licensed Patents, then the Parties will discuss and agree which Party shall institute, prosecute and control such Cross-Field Infringement Action. The Party controlling such infringement action (the "**Controlling Party**") shall be entitled to employ counsel of its choosing and shall control all aspects of such action, including the right to enter into any settlement, consent judgment or other voluntary final disposition respecting such action, *provided* that (A) the other Party shall have the right to be represented by its own counsel in connection with

such action, at its expense, (B) the Controlling Party shall keep the other Party reasonably informed of the progress of such action in a timely fashion, and shall consider and incorporate such other Party's comments in good faith in connection with any aspect of such action that is reasonably likely to impact such other Party's rights in the Licensed Patents, and (C) the Controlling Party shall not enter into any settlement of a Cross-Field Infringement Action that would materially adversely affect the other Party's rights or interests under this Agreement (including by any action that would impact the validity of any claim of a Licensed Patent) without the written consent of such other Party, which consent shall not be unreasonably withheld.

(c) The cost sharing arrangements and non-payment remedies set forth in Section 3.1.2 shall apply with respect to the expenses incurred by the Controlling Party in prosecuting any Cross-Field Infringement Action, and the non-Controlling Party shall be responsible for, and shall pay to the Controlling Party, the Pro Rata Percentage of such expenses (as if such Controlling Party was AquaBeam, *mutatis mutandis*). The non-Controlling Party shall share in all monetary awards (after the Controlling Party's costs and expenses have been fully paid) resulting from such Cross-Field Infringement Action, or settlement thereof, in an amount equal to the Pro Rata Percentage of any such awards. The non-Controlling Party shall provide reasonable cooperation and assistance and shall execute such legal papers and perform any other acts relating to the Controlling Party's prosecution of any Cross-Field Infringement Action as may be reasonably requested by the Controlling Party and shall furnish a power of attorney or shall join in or be named as a party to such Cross-Field Infringement Action if and as necessary to enable the Controlling Party to prosecute such Cross-Field Infringement Action; *provided*, that the Controlling Party shall reimburse the non-Controlling Party for all expenses incurred by such non-Controlling Party in providing such cooperation and assistance. For the avoidance of doubt, Procept's rights and responsibilities under this Section 3.2.2(b) (including the rights to participate in, share awards from and consent to settlement of Cross-Field Infringement Actions) shall only apply to Cross-Field Infringement Actions and except as set forth in Section 3.2.2(a), Procept shall have no rights or responsibilities with respect to any action against third party infringement of Licensed Patents that is occurring entirely outside the Field.

(d) If neither Procept nor AquaBeam elects to prosecute a Cross-Field Infringement Action (an "**Abandoned Cross-Field Infringement Action**"), AquaBeam shall promptly provide notice of the same to any affected Additional Licensee (i.e., such Additional Licensees in whose fields of use the infringement is occurring). Thereafter, such affected Additional Licensees shall have the right, but not the obligation, to assume all future responsibility with respect to prosecuting such Abandoned Cross-Field Infringement Action as if such Additional Licensee were a Controlling Party under Section 3.2.2(b) (and shall be responsible for all fees and expenses related thereto), subject to the rights of Procept and AquaBeam as non-Controlling Parties in relation thereto.

(e) If there is a dispute as to (i) whether a Party's institution and control of an infringement action in accordance with this Section 3.2.2 would materially adversely impact the other Party's rights in the Licensed Patents, or (ii) which Party will be the Controlling Party with respect to any Cross-Field Infringement Action under Section 3.2.2(b), then the Parties shall refer such dispute for resolution to a mutually agreed independent patent attorney with no less than twenty (20) years of patent prosecution and/or patent litigation experience in the biomedical device fields ("**Expert Determination**"). The Parties shall use their best efforts to conclude any Expert Determination within ninety (90) days following referral of the dispute, and if unable to be resolved by Expert Determination (or if the Parties are unable to mutually agree upon a suitable expert, the dispute shall be referred for final resolution under Section 9.2.

3.2.3 In-Field Infringement Action.

(a) If infringement or potential infringement by a third party of the Licensed Patents is occurring exclusively within the Field (and not outside the Field), then AquaBeam and Procept shall confer with each other regarding a course of action, including but not limited to, sending a cease-and-desist letter or filing a legal action, to terminate such infringement of the Licensed Patents in the Field.

(b) Unless AquaBeam and Procept agree to jointly institute an action against third party infringement of Licensed Patents that is occurring exclusively within the Field (an "**In-Field Infringement Action**") (in which case, such jointly instituted In-Field Infringement Action shall be managed in accordance with

terms mutually agreed by both Parties), Procept shall have the first right, but not the obligation, to institute, prosecute and control an In-Field Infringement Action at its sole expense. If Procept elects to prosecute an In-Field Infringement Action, Procept shall be entitled to employ counsel of its choosing, shall control all aspects of such In-Field Infringement Action, including the right to enter into any settlement, consent judgment or other voluntary final disposition respecting such action, and shall be entitled to all monetary awards resulting from such In-Field Infringement Action or settlement thereof; *provided*, *however* that Procept shall not enter into any settlement of an In-Field Infringement Action that would materially adversely affect AquaBeam's rights or interests (including by any action that would impact the validity of any claim of a Licensed Patent) without the written consent of AquaBeam, which consent shall not be unreasonably withheld. AquaBeam shall provide reasonable cooperation and assistance and shall execute such legal papers and perform any other acts relating to Procept's prosecution of any In-Field Infringement Action as may be reasonably requested by Procept and shall furnish a power of attorney or shall join in or be named as a party to such In-Field Infringement Action if and as necessary to enable Procept to prosecute such In-Field Infringement Action; *provided* that Procept shall reimburse AquaBeam for all expenses incurred by AquaBeam in providing such cooperation and assistance.

(c) If Procept elects not to institute, prosecute and control an In-Field Infringement Action or, within three (3) months after becoming aware of such infringement, Procept has not obtained a discontinuance of such infringement, has not filed suit against the alleged infringer, or has not provided AquaBeam with information and arguments demonstrating to AquaBeam's reasonable satisfaction that there is insufficient basis for the allegation of infringement, then AquaBeam shall have the right, but not the obligation, to institute, prosecute and control such In-Field Infringement Action that Procept has failed to pursue (an "**Abandoned In-Field Infringement Action**") at AquaBeam's sole expense. If AquaBeam elects to prosecute an Abandoned In-Field Infringement Action, AquaBeam shall be entitled to employ counsel of its choosing and shall control all aspects of such Abandoned In-Field Infringement Action, including the right to enter into any settlement, consent judgment or other voluntary final disposition respecting such action; *provided*, *however* that AquaBeam shall not enter into any settlement of an Abandoned In-Field Infringement Action that would materially adversely affect Procept's rights or interests under this Agreement (including by any action that would impact the validity of any claim of a Licensed Patent) without the written consent of Procept, which consent shall not be unreasonably withheld. Procept shall be entitled to all monetary awards (after AquaBeam's reasonable costs and expenses associated with such action have been fully paid) resulting from such Abandoned In-Field Infringement Action, or settlement thereof.

3.3 Procept Patents.

3.3.1 Prosecution and Maintenance of Procept Patents

(a) Except upon a Procept Patent Abandonment, Procept shall be responsible, at its sole discretion, for the Prosecution and Maintenance of the Procept Patents in every jurisdiction worldwide, and for determining strategy with respect thereto, and for activities related to Other Patent Proceedings relating to the Procept Patents. Procept agrees to act in a commercially reasonable manner with respect to the Prosecution and Maintenance of the Procept Patents. Procept shall keep AquaBeam apprised of any material and non-ministerial activities related to the Procept Patents by providing AquaBeam with copies of official actions, amendments and responses with respect to the Prosecution and Maintenance of the Procept Patents. AquaBeam shall have the right to make reasonable recommendations to Procept concerning material activities related to the Prosecution and Maintenance of the Procept Patents to the extent not relating to the Field, and Procept shall consider in good faith such recommendations made by AquaBeam with respect to such activities. Any input provided by AquaBeam to Procept with respect to the Prosecution and Maintenance of the Procept Patents shall be deemed to be the Confidential Information of Procept.

(b) Abandonment. If Procept decides to discontinue Prosecution and Maintenance of any Patent Right within the Procept Patents (a "**Discontinued Procept Patent**"), then during the term of the license grant under Section 2.3.2 (as provided in Section 8.4.1), Procept shall give prompt written notice to AquaBeam of Procept's decision to so discontinue (a "**Procept Patent Abandonment**"), which notice shall, in any event, be given no later than sixty (60) days prior to the next deadline for any action that may be taken with respect to such Discontinued Procept Patent with the applicable patent office. At Procept's sole discretion, Procept may offer AquaBeam the right to assume responsibility for Prosecution and Maintenance of such Discontinued Procept

Patent. If Procept makes such an offer, AquaBeam shall then have the right, but not the obligation, to assume all future responsibility for the Prosecution and Maintenance of such Discontinued Procept Patent; *provided, however*, AquaBeam shall provide written notice to Procept of its election to assume such Prosecution and Maintenance responsibility for such Discontinued Procept Patent. If AquaBeam assumes responsibility for such Prosecution and Maintenance, in Procept's name, it shall proceed with the Prosecution and Maintenance thereof at its sole expense. Procept shall reasonably cooperate to enable AquaBeam to continue Prosecution and Maintenance of the Discontinued Procept Patent; *provided, however*, AquaBeam shall reimburse Procept for all expenses incurred by Procept in performing such acts and providing such cooperation.

3.3.2 Infringement of Procept Patents by a Third Party

(a) Notice. During the term of the license grant under Section 2.3.2 (as provided in Section 8.4.1), each Party shall notify the other Party in writing of any actual or suspected infringement by a third party of the Procept Patents as soon as practicable after such Party becomes aware of such infringement. Such written notice shall set forth the facts of the infringement in reasonable detail and shall include all available evidence supporting such known or suspected infringement.

(b) Infringement Within and Outside Field. With respect to any infringement of the Procept Patents solely within the Field, Procept shall have the sole right to prosecute and control any such infringement action, and shall have no obligations to AquaBeam in connection with such action. If infringement or potential infringement by a third party of the Procept Patents is occurring both within and outside the Field (a "**Procept Cross-Field Infringement Action**"), the terms of Section 3.2.2(b) and Section 3.2.2(c) of the Agreement (as amended) shall apply to and be binding on Procept (in its capacity as licensor) and AquaBeam (in its capacity as licensee) *mutatis mutandis*, except that Procept, and not AquaBeam shall have the first right, but not the obligation, to prosecute such Procept Cross-Field Infringement Action, even if AquaBeam or any Additional Licensee is at such time developing or commercializing products covered by such Procept Patents outside the Field.

(c) Infringement Entirely Outside Field. If infringement or potential infringement by a third party of the Procept Patents is occurring exclusively outside the Field (and not within the Field), then Procept and AquaBeam shall confer with each other regarding a course of action, including but not limited to, sending a cease-and-desist letter or filing a legal action, to terminate such infringement of the Procept Patents outside the Field. Unless Procept and AquaBeam agree to jointly institute an action against third party infringement of Procept Patents that is occurring exclusively outside the Field (in which case, such jointly instituted action shall be managed in accordance with terms mutually agreed by both Parties), AquaBeam shall have the first right, but not the obligation, to institute, prosecute and control such action (outside the Field) at its sole expense, with Procept's prior written consent, not to be unreasonably withheld, provided that it shall be reasonable for Procept to withhold its consent if Procept reasonably believes that AquaBeam's instituting such action would be likely to adversely impact Procept's rights in the Licensed Patents. If AquaBeam institutes such an action with Procept's consent, the terms of Section 3.2.3 of the Agreement (as amended) shall apply to and be binding on Procept (in its capacity as licensor) and AquaBeam (in its capacity as licensee) *mutatis mutandis*.

4. CONFIDENTIALITY.

4.1 Obligations Regarding Confidential Information. The Receiving Party shall not use any Confidential Information provided by the Disclosing Party except as necessary for the Receiving Party to exercise its rights or perform its obligations under this Agreement. The Receiving Party shall not disclose Confidential Information provided by the Disclosing Party to others (except to its employees, consultants, agents and Affiliates who reasonably require disclosure of such Confidential Information to enable the Receiving Party to exercise its rights or perform its obligations hereunder and who are bound to the Receiving Party by like obligations as to confidentiality no less stringent than those set forth herein) without the prior written permission of the Disclosing Party. The Receiving Party shall treat all Confidential Information with the same degree of care as the Receiving Party accords its own information or materials of a similar nature, but in no case less than reasonable care. The Receiving Party shall not copy any Confidential Information except as necessary to enable the Receiving Party to use Confidential Information as permitted hereunder, and shall ensure that each such copy shall contain and state the same confidential or proprietary notices or legends which appear on the original. The Receiving Party shall

immediately give notice to the Disclosing Party of, and shall assist the Disclosing Party in remedying, any unauthorized use or disclosure of Confidential Information.

4.2 Authorized Disclosure. Notwithstanding the foregoing Section 4.1, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent such disclosure is reasonably necessary to comply with applicable governmental laws and regulations, court orders or other legal requirements, including filings with the U.S. Securities Exchange Commission and comparable governmental agencies applicable to the Parties; *provided* that the Receiving Party shall give reasonable advance notice to the Disclosing Party of such disclosure and shall seek confidential treatment of such Confidential Information to the fullest extent possible and/or shall use reasonable efforts to cooperate with the Disclosing Party in its efforts to secure confidential or protective treatment of such Confidential Information.

4.3 Terms of this Agreement. Neither Party may disclose to any third party the terms and conditions of this Agreement without the other Party's prior written consent, except: (a) as required by any court or other governmental body or as otherwise required by law; (b) in connection with the requirements of a public offering or securities filing, provided the disclosing Party shall endeavor to obtain confidential treatment of financial and trade secret information contained herein; (c) under appropriate conditions of confidentiality, to sublicensees (including potential or actual Additional Licensees), subcontractors, accountants, legal counsel, banks, existing or potential investors or other financing sources and their advisors; or (d) under appropriate conditions of confidentiality, in connection with a merger or acquisition or proposed merger or acquisition, or the like.

4.4 Return of Confidential Information. Confidential Information shall remain the property of the Disclosing Party. Upon expiration or earlier termination of this Agreement, the Receiving Party shall immediately cease to use the Disclosing Party's Confidential Information and, at the Disclosing Party's option, either return to the Disclosing Party or destroy all data, drawings, memoranda, notes and other written materials (including summaries, records, descriptions, modifications, drawings and adaptations that have been made from any such materials), together with any magnetic media and computer stored information, including any copies thereof, embodying or containing any of the Disclosing Party's Confidential Information in the possession or control of the Receiving Party or its Affiliates, consultants or agents; *provided*, *however*, that one (1) copy of such Confidential Information may be retained on a confidential basis only for archival purposes or as reasonably necessary to exercise any surviving rights hereunder. Any destruction pursuant to the preceding sentence shall be promptly confirmed in writing. The return or destruction of Confidential Information as provided herein shall not relieve the Receiving Party of its obligations under this Agreement.

4.5 Remedies. The Parties understand and agree that, in the event of any actual or threatened breach of this Article 4, the Disclosing Party may suffer an irreparable injury such that monetary damages may be inadequate to compensate the Disclosing Party for such breach. Accordingly, the Parties agree that, in addition to all other rights and remedies at law and in equity that might be available to the Disclosing Party, in the event of any actual or threatened breach of this Article 4 the Disclosing Party shall be entitled to injunctive relief, without the need to post a bond or prove actual damages, in order to prevent or to restrain any such breach by the Receiving Party, any of its Affiliates, or any other Person directly or indirectly acting for, on behalf of, or with the Receiving Party.

5. REPRESENTATIONS AND WARRANTIES; AQUABEAM COVENANT.

5.1 Mutual Representations and Warranties. Each Party hereby represents and warrants to the other Party as follows, all such representations and warranties being as of the Effective Date:

(a) it has full power and authority to enter into this Agreement and to perform its obligations and grant the rights and licenses granted by it under this Agreement;

(b) it has taken all action necessary for the lawful execution, delivery and performance of this Agreement, the person executing this Agreement on its behalf has been duly authorized to do so by all requisite corporate action, and this Agreement is legally binding upon it and enforceable in accordance with its terms;

(c) the execution, delivery and performance of this Agreement by it do not violate, conflict with or constitute a default under any agreement or instrument (including its corporate charter or other organizational documents) to which it is a party or by which it may be bound, or, to its knowledge, any applicable law, regulation or order of any court or other tribunal; and

(d) to its knowledge, none of the Foundational Patents infringes, and it has not received any written notice that the Foundational Patents or the practice of any of the Foundational Patents infringe, any intellectual property right of any third Person and, to its knowledge, there is no infringement by any third Person of any of the Foundational Patents.

5.2 Limitations. Neither Party warrants or represents, and nothing in this Agreement shall be construed as a warranty or representation by either Party:

(a) as to the validity, scope or enforceability of any patent within the Licensed Patents;

(b) that anything developed, made, used, sold, offered for sale, imported or otherwise created, conceived or disposed of under any license granted hereunder is or shall be free from infringement or violation of any patent or other intellectual property rights of third parties; or

(c) that either Party will bring or agrees to bring or prosecute actions or suits against third parties for infringement of any patent within the Licensed Patents.

5.3 No Other Representations. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.1, NEITHER PARTY MAKES ANY REPRESENTATION OR EXTENDS ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY HEREBY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OF THIRD PARTY RIGHTS OR TITLE. WITHOUT LIMITING THE FOREGOING AND SUBJECT TO THE EXPRESS PROVISIONS OF THIS AGREEMENT, ALL LICENSES GRANTED HEREUNDER ARE GRANTED "AS IS," AND EACH PARTY HEREBY DISCLAIMS ANY REPRESENTATION, WARRANTY OR GUARANTEE THAT COMMERCIALIZATION OF ANY LICENSED PRODUCTS WILL BE SUCCESSFUL, IN WHOLE OR IN PART.

5.4 AquaBeam Covenant. AquaBeam agrees that it shall not grant to any non-Affiliate Person (including an Additional Licensee) any rights with respect to the Licensed Patents that, taken as a whole, are more beneficial to such Person in comparison to the rights granted to Procept hereunder, unless (a) Procept gives prior written approval of the same, or (b) Procept is granted, in writing, the same beneficial rights (and related obligations) at the same time as the grant of rights to such Person.

6. LIMITATION OF LIABILITY.

6.1 No Indirect Damages. EXCEPT IN THE CASE OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL HAVE ANY LIABILITY UNDER THIS AGREEMENT FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR INDIRECT DAMAGES OR LIABILITIES, INCLUDING WITHOUT LIMITATION SUCH DAMAGES OR LIABILITIES FOR LOSS OF REVENUE, LOSS OF BUSINESS, FRUSTRATION OF ECONOMIC OR BUSINESS EXPECTATIONS, LOSS OF PROFITS, OR COST OF CAPITAL, REGARDLESS OF THE FORM OF THE ACTION, WHETHER IN CONTRACT OR OTHERWISE, EVEN IF A PARTY HERETO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.2 No Liability. In no event shall AquaBeam be responsible or liable for any loss, claim, damage or liability, of any kind or nature whatsoever, which may arise from or in connection with Procept's exercise of the license under this Agreement, including in connection with any commercialization of Licensed Products in the Field by Procept, its sublicensees, contractors, employees, directors, agents or representatives, or otherwise in connection with Procept's use or exploitation of the Licensed Patents. In no event shall Procept be responsible or liable for any

loss, claim, damage or liability, of any kind or nature whatsoever, which may arise from or in connection with AquaBeam's exercise of the license under this Agreement, including in connection with any commercialization of AquaBeam Products outside the Field by AquaBeam, its sublicensees, contractors, employees, directors, agents or representatives, or any Additional Licensee, or otherwise in connection with AquaBeam's use or exploitation of its rights under the Procept Patents.

7. INDEMNIFICATION.

7.1 Procept Indemnification. Procept shall indemnify, defend and hold harmless AquaBeam and its directors, officers, employees and agents from and against any and all claims, suits, and causes of action brought by a third party and all associated losses, damages, liabilities, costs, fees, and expenses, including attorney fees and litigation costs, resulting from or arising out of or in connection with the manufacture, handling, labeling, packaging, use, sale, transportation, storage or other disposition of Licensed Products by Procept or its sublicensees, contractors, employees, directors, agents or representatives, whether based on breach of warranty, negligence, product liability or otherwise, in all cases whether under the Original License Agreement or this Agreement.

7.2 AquaBeam Indemnification. AquaBeam shall indemnify, defend and hold harmless Procept and its directors, officers, employees and agents from and against any and all claims, suits, and causes of action brought by a third party and all associated losses, damages, liabilities, costs, fees, and expenses, including attorney fees and litigation costs, resulting from or arising out of or in connection with the manufacture, handling, labeling, packaging, use, sale, transportation, storage or other disposition of AquaBeam Products by AquaBeam or its sublicensees (including any Additional Licensee), contractors, employees, directors, agents or representatives, whether based on breach of warranty, negligence, product liability or otherwise, in all cases whether under the Original License Agreement or this Agreement.

8. TERM AND TERMINATION.

8.1 Term. The term of this Agreement ("**Term**") shall commence on the Original Effective Date and, unless earlier terminated provided in this Article 8, shall remain in effect, on a country-by-country basis, until the later of (a) the last-to-expire Valid Claim, or (b) the last-to-expire Procept Patent Valid Claim.

8.2 Termination for Breach. If either Party (the "**Breaching Party**") materially breaches any of its representations, warranties, covenants or obligations under this Agreement, the other Party (the "**Non-Breaching Party**") shall have the right, at its sole election, to terminate this Agreement upon providing ninety (90) days' (or thirty (30) days' in the case of breach for non-payment) written notice to the Breaching Party, such notice specifying the alleged breach in reasonable detail; *provided*, *however*, that if the Breaching Party shall cure the breach within the ninety (90) or thirty (30) day period, as applicable, this Agreement shall continue in full force and effect. Notwithstanding the foregoing, in the event the Breaching Party disputes in good faith the existence, nature or extent of a breach under this Agreement, the Non-Breaching Party shall not have the right to terminate this Agreement unless and until (a) a final determination is made, through the dispute resolution provisions of Article 9, that the Breaching Party materially breached this Agreement, and, (b) in the case where such a final determination is made, the Breaching Party thereafter fails to cure such breach within the applicable time period set forth in this Section 8.2. All amounts not in dispute shall continue to be timely paid.

8.3 Termination for Bankruptcy. Either Party may terminate this Agreement, effective immediately upon giving written notice to the other Party, if the other Party the "**Bankrupt Party**"): (a) files in any court or agency pursuant to any statute or regulation of any state or country, a petition in bankruptcy or insolvency or for reorganization or for an arrangement or for the appointment of a receiver or trustee of the Bankrupt Party or of its assets; (b) is served with an involuntary petition in bankruptcy or seeking reorganization, liquidation, dissolution, winding-up arrangement, readjustment of its debts or any other relief under any bankruptcy, insolvency, reorganization or other similar act or law of any jurisdiction now or hereafter in effect, which petition is not dismissed within ninety (90) days after the filing thereof; (c) has a warrant of attachment, execution, or similar process issued against it, filed in any insolvency proceeding and not dismissed or stayed within ninety (90) days after the filing thereof; (d) proposes to be a party to any dissolution or liquidation; or (e) makes an assignment for the benefit of creditors.

8.4 Effects of Termination and Expiration.

8.4.1 Survival. The following provisions will remain in full force and effect after the expiration or termination of this Agreement: Article 1 (Definitions) to the extent definitions are embodied in the following provisions; Article 4 (Confidentiality); Section 5.3 (Disclaimers); Article 6 (Limitation of Liability); Article 7 (Indemnification); Section 8.4 (Term and Termination); Section 8.5 (Rights in Bankruptcy); Article 9 (Disputes; Governing Law); and Section 10 (General Provisions).

8.4.2 Accrued Obligations. Expiration or termination of this Agreement shall not relieve the Parties of any obligation accruing before such expiration or termination, including, without limitation, the obligation to make payments in connection with activities commenced or performed before such expiration or termination. Any expiration or termination of this Agreement shall be without prejudice to the rights of any Party against the any other Party accrued or accruing under this Agreement before expiration or termination.

8.5 Rights in Bankruptcy. All licenses granted under or pursuant to this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101 of the U.S. Bankruptcy Code. Without limiting the foregoing, the step-in rights granted to each Party as a licensee under Sections 3.1, 3.2 and/or 3.3 shall be deemed license rights of such Party. The Parties agree that the Parties, as licensees of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the U.S. Bankruptcy Code. The Parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against a Party under the U.S. Bankruptcy Code (the "**Subject Party**"), which proceeding is not terminated or withdrawn within ninety (90) days after such commencement, the Party that is not a party to such proceeding (the "**Non-Subject Party**") shall be entitled (unless the Subject Party elects to continue to perform all of its obligations under this Agreement) to a complete duplicate of (or complete access to, as appropriate) any such intellectual property and all embodiments of such intellectual property necessary to exercise its license rights granted hereunder, which, if not already in the Non-Subject Party's possession, shall be promptly delivered to the Non-Subject Party (a) after ninety (90) days following any such commencement of a bankruptcy proceeding, upon the Non-Subject Party's written request therefor (unless the Subject Party elects to continue to perform all of its obligations under this Agreement), or (b) if not delivered under clause (a) above, following the rejection of this Agreement by or on behalf of the Subject Party, upon written request therefor by the Non-Subject Party.

9. DISPUTES; GOVERNING LAW.

9.1 Parties' Objective. The Parties recognize that disputes as to certain matters may from time to time arise during the Term that relate to a Party's rights or obligations hereunder. It is the objective of the Parties to establish procedures to facilitate the resolution of disputes arising from, concerning or in any way relating to this Agreement in an expedient manner by mutual cooperation and without resort to litigation. To accomplish this objective, the Parties agree to follow the procedures set forth in this Section 9 if and when a dispute arises under this Agreement.

9.2 Dispute Resolution. The Parties shall attempt in good faith to resolve any and all disputes that arise between them under this Agreement promptly, voluntarily and amicably. Any dispute arising between the Parties relating to, arising out of, or in any way connected with this Agreement, including pertaining to any term or condition hereof, or the performance by either Party of its obligations hereunder, or the existence of a material breach or the right to terminate this Agreement under Section 8.2, (a "**Dispute**"), whether before or after expiration or termination of this Agreement, which is not settled by the Parties within thirty (30) days after written notice of such Dispute is first given by a representative of one Party to the other Party in writing, will be referred to a senior executive designated by AquaBeam and a senior executive designated by Procept who are authorized to settle such Dispute on behalf of their respective companies ("**Senior Executives**"). The Senior Executives shall schedule a meeting within thirty (30) days after such matter is referred to them and shall attempt to resolve the Dispute by good faith negotiations within thirty (30) days after their first meeting. If the Senior Executives fail to resolve the Dispute within thirty (30) days after their first meeting, the Parties may mutually agree to resolve such Dispute through other informal procedural means, including, but not limited to, referral to an independent, neutral third party expert or mediation, arbitration and/or any other procedure(s) upon which the Parties mutually agree. Each Party agrees that,

prior to resorting to litigation to resolve any Dispute, it will confer in good faith with the other Party to determine whether other procedures that are less expensive or less time consuming can be adopted to resolve the Dispute. Notwithstanding the foregoing, nothing in this Section 9.2 shall be construed to waive any rights or the timely performance of any obligations existing under this Agreement.

9.3 Governing Law; Judicial Resolution. This Agreement, and the resolution of all Disputes and any remedies relating thereto, shall be governed by and construed in accordance with the substantive laws of the State of California, without regard to conflict of laws rules. Subject to Section 9.2, if either Party resorts to litigation to resolve a Dispute, each Party irrevocably and unconditionally consents to the exclusive jurisdiction of the courts of general jurisdiction of the State of California and the United States District Court for the Northern District of California (collectively, the "**Courts**") for any such litigation, and each Party agrees not to commence any litigation except in the Courts. Each Party hereby waives any other venue to which it may be entitled by virtue of domicile or otherwise.

10. GENERAL PROVISIONS.

10.1 Notices. All notices, requests, consents and other communications given or made by a Party under this Agreement shall be in writing and shall be deemed given (a) three (3) days after mailing when mailed (by registered or certified mail, postage paid, only), (b) on the date sent when made by facsimile transmission with confirmation of receipt, or (c) on the date received when delivered in person or by overnight commercial courier. All notices shall be provided to the address set forth below or such other place as such Party may from time to time designate in writing. Each Party may alter its address set forth below by notice in writing to the other Parties.

AquaBeam:
AquaBeam LLC
2995 Woodside Road, Suite 100
Woodside, California 94062
Phone:
Fax:
Attn: Rodney Perkins

Procept:
PROCEPT BioRobotics Corporation
900 Island Dr #210,
Redwood City, CA 94065
Phone: (650) 232-7200
Attn: A. Nikolai Aljuri

10.2 Export Controls. This Agreement is made subject to any restrictions concerning the export of materials and intellectual property from the United States which may be imposed upon or related to either Party from time to time by the Government of the United States. Without limiting the foregoing, neither Party will or will allow its Affiliates to export, directly or indirectly, any intellectual property of the other Party or any product utilizing such intellectual property to any countries for which the United States Government or any agency thereof at the time of export requires an export license or other governmental approval, without first obtaining the written consent to do so from the Department of Commerce or other agency of the United States Government when required by applicable statute or regulation.

10.3 Force Majeure. Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any provision of this Agreement, other than an obligation to make a payment, when such failure or delay is caused by or results from fire, floods, embargoes, government regulations, prohibitions or interventions, war, acts of war (whether war be declared or not), insurrections, riots, civil commotions, strikes, lockouts, acts of God, or any other cause beyond the reasonable control of the affected Party and without such Party's fault or negligence; provided that the affected Party notifies the unaffected Party as soon as reasonably possible, and resumes performance hereunder as soon as reasonably possible following cessation of such force majeure event.

10.4 Relationship between the Parties. The relationship between the Parties by virtue of this Agreement is solely that of independent contractors. Neither Party nor its employees, agents or representatives shall be considered agents, partners, franchisees, employees, owners, or representatives of the other Party or parties to a joint venture by virtue of this Agreement. Neither Party has the authority, and neither Party shall act or represent itself, directly or by implication, as having the authority to bind or create any obligation or liability on behalf of the other Party.

10.5 Assignment. Procept may not assign or transfer this Agreement, or any rights or obligations under this Agreement, without the prior written consent of AquaBeam, and any attempt to do so without such consent will be void. Notwithstanding the foregoing, however, Procept may, with written notice to AquaBeam but without AquaBeam's consent, assign or transfer this Agreement and Procept's rights and obligations hereunder to a successor of all or substantially all of Procept's assets, stock or business to which this Agreement relates (whether by sale, acquisition, merger, operation of law or otherwise), so long as such successor shall assume (expressly in writing or by operation of law) the performance of all of the terms of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

10.6 Severability. If one or more provisions in this Agreement are ruled entirely or partly invalid or unenforceable by any court or governmental authority of competent jurisdiction, then: (a) all provisions not ruled to be invalid or unenforceable shall remain unaffected; (b) the effect of such ruling shall be limited to the body making the ruling; and (c) the provision(s) held wholly or partly invalid or unenforceable shall be deemed amended, and the Parties shall reform the provision(s) to the minimum extent necessary to render them valid and enforceable in conformity with the Parties' intent as manifested herein.

10.7 Amendment; Waiver. This Agreement may be amended, modified or supplemented only by a writing that is signed by duly authorized representatives of both Parties and that specifically identifies the provision or provisions of this Agreement being amended, modified or supplemented. No term or provision hereof will be considered waived by either Party, and no breach excused by either Party, unless such waiver or consent is in writing signed on behalf of the Party against whom the waiver is asserted. Without limiting the foregoing, no consent by either Party to, or waiver of, a breach by the other Party, whether express or implied, will constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by the other Party.

10.8 Representation by Legal Counsel. Each Party represents that it has been represented by legal counsel in connection with the negotiation and drafting of this Agreement and acknowledges that it has participated in the drafting hereof. In interpreting and applying the terms and provisions of this Agreement, the Parties agree that no presumption shall exist or be implied against the Party that drafted such terms and provisions.

10.9 Counterparts; Facsimile Signatures. This Agreement may be executed by original or facsimile signature in two counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument. If this Agreement is executed in counterparts, neither signatory hereto shall be bound until both Parties have duly executed or caused to be duly executed (by original or facsimile signature) a counterpart of this Agreement. Notwithstanding the foregoing, the Parties shall deliver original execution copies of this Agreement to one another as soon as practicable following execution thereof.

10.10 Entire Agreement. This Agreement, including all exhibits to this Agreement, constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior or simultaneous representations, discussions, proposals, negotiations, letters of intent, and agreements, whether oral, written or based on a course of dealing or performance, with respect to the subject matter hereof, including the Original License Agreement, which is superseded and replaced in its entirety by this Agreement.

10.11 Further Actions. Each Party agrees to execute, acknowledge, and deliver such further instruments and to do all such other acts, as may be necessary or appropriate to carry out the purposes and intent of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, duly authorized representatives of the Parties have duly executed and delivered this Amended and Restated Exclusive License Agreement to be effective as of the Original Effective Date.

AquaBeam LLC	**PROCEPT BioRobotics Corporation**
/s/ Nikolai Aljuri, Ph.D	/s/ Alaleh Nouri
Signature	**Signature**
Nikolai Aljuri, Ph.D.	Alaleh Nouri
Name	**Name**
Managing Partner	SVP, General Counsel & Corporate Secretary
Title	**Title**

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (as the same may from time to time be amended, modified, supplemented or restated, this "**Agreement**") dated as of September 25, 2019 (the "**Effective Date**") among OXFORD FINANCE LLC, a Delaware limited liability company with an office located at 133 North Fairfax Street, Alexandria, Virginia 22314 ("**Oxford**"), as collateral agent (in such capacity, "**Collateral Agent**"), the Lenders listed on Schedule 1.1 hereof or otherwise a party hereto from time to time including Oxford in its capacity as a Lender (each a "**Lender**" and collectively, the "**Lenders**"), and PROCEPT BIOROBOTICS CORPORATION, a California corporation with offices located at 900 Island Drive, Suite 210, Redwood Shore, California 94065 ("**Borrower**"), provides the terms on which the Lenders shall lend to Borrower and Borrower shall repay the Lenders. The parties agree as follows:

1. ACCOUNTING AND OTHER TERMS

1.1 Accounting terms not defined in this Agreement shall be construed in accordance with GAAP. Calculations and determinations must be made in accordance with GAAP; provided, however, any obligations of a Person that are or would have been treated as operating leases or capital leases for purposes of GAAP prior to the issuance by the Financial Accounting Standards Board on February 25, 2016 of an Accounting Standards Update (the "**ASU**") shall continue to be accounted for as operating leases or capital leases for purposes of this Agreement (whether or not such operating lease obligations or capital lease obligations, as applicable, were in effect on such date) notwithstanding the fact that such obligations are required in accordance with the ASU (on a prospective or retroactive basis or otherwise) to be treated as capitalized lease obligations in accordance with GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein. All references to "**Dollars**" or "**$**" are United States Dollars, unless otherwise noted.

2. LOANS AND TERMS OF PAYMENT

2.1 Promise to Pay. Borrower hereby unconditionally promises to pay each Lender, the outstanding principal amount of all Term Loans advanced to Borrower by such Lender and accrued and unpaid interest thereon and any other amounts due hereunder as and when due in accordance with this Agreement.

2.2 Term Loans.

(a) Availability. (i) Subject to the terms and conditions of this Agreement, the Lenders agree, severally and not jointly, to make term loans to Borrower on the Effective Date in an aggregate amount of Twenty Five Million Dollars ($25,000,000.00) according to each Lender's Term A Loan Commitment as set forth on Schedule 1.1 hereto (such term loans are hereinafter referred to singly as a "**Term A Loan**", and collectively as the "**Term A Loans**"). After repayment, no Term A Loan may be re-borrowed.

(ii) Subject to the terms and conditions of this Agreement, the Lenders agree, severally and not jointly, during the Second Draw Period, to make term loans to Borrower in an aggregate amount of Twenty Five Million Dollars (25,000,000.00) according to each Lender's Term B Loan Commitment as set forth on Schedule 1.1 hereto (such term loans are hereinafter referred to singly as a "**Term B Loan**", and collectively as the "**Term B Loans**"). After repayment, no Term B Loan may be re-borrowed.

(iii) Subject to the terms and conditions of this Agreement, the Lenders agree, severally and not jointly, during the Third Draw Period, to make term loans to Borrower in an aggregate amount of Ten Million Dollars ($10,000,000.00) according to each Lender's Term C Loan Commitment as set forth on Schedule 1.1 hereto (such term loans are hereinafter referred to singly as a "**Term C Loan**", and collectively as the "**Term C Loans**"). After repayment, no Term C Loan may be re-borrowed.

(iv) Subject to the terms and conditions of this Agreement, the Lenders agree, severally and not jointly, during the Fourth Draw Period, to make term loans to Borrower in an aggregate amount up to Fifteen Million Dollars ($15,000,000.00) according to each Lender's Term D Loan Commitment as set forth on Schedule 1.1 hereto (such term loans are hereinafter referred to singly as a "**Term D Loan**", and collectively as the "**Term D Loans**"; each Term A Loan, Term B Loan, Term C Loan or Term D Loan is hereinafter referred to singly as a "**Term Loan**" and the Term A Loans, Term B Loans, Term C Loans and the Term D Loans are hereinafter referred to collectively as the "**Term Loans**"). After repayment, no Term D Loan may be re-borrowed.

(b) Repayment. Borrower shall make monthly payments of interest only commencing on the first (1st) Payment Date following the Funding Date of each Term Loan, and continuing on the Payment Date of each successive month thereafter through and including the Payment Date immediately preceding the Amortization Date. Borrower agrees to pay, on the Funding Date of each Term Loan, any initial partial monthly interest payment otherwise due for the period between the Funding Date of such Term Loan and the first Payment Date thereof. Commencing on the Amortization Date, and continuing on the Payment Date of each month thereafter, Borrower shall make consecutive equal monthly payments of principal, together with applicable interest, in arrears, to each Lender, as calculated by Collateral Agent (which calculations shall be deemed correct absent manifest error) based upon: (1) the amount of such Lender's Term Loan, (2) the effective rate of interest, as determined in Section 2.3(a), and (3) a repayment schedule equal to (i) thirty-six (36) months, if the Third Draw Period does not commence (ii) twenty-four (24) months, if the Third Draw Period commences but the IPO Event does not occur and (iii) twelve (12) months, if the Third Draw Period commences and the IPO Event occurs. All unpaid principal and accrued and unpaid interest with respect to each Term Loan is due and payable in full on the Maturity Date. Each Term Loan may only be prepaid in accordance with Sections 2.2(c) and 2.2(d).

(c) Mandatory Prepayments. If the Term Loans are accelerated following the occurrence of an Event of Default, Borrower shall immediately pay to Lenders, payable to each Lender in accordance with its respective Pro Rata Share, an amount equal to the sum of: (i) all outstanding principal of the Term Loans plus accrued and unpaid interest thereon through the prepayment date, (ii) the Final Payment, (iii) the Prepayment Fee, plus (iv) all other Obligations that are due and payable, including Lenders' Expenses and interest at the Default Rate with respect to any past due amounts. Notwithstanding (but without duplication with) the foregoing, on the Maturity Date, if the Final Payment had not previously been paid in full in connection with the prepayment of the Term Loans in full, Borrower shall pay to Collateral Agent, for payment to each Lender in accordance with its respective Pro Rata Share, the Final Payment in respect of the Term Loan(s).

(d) Permitted Prepayment of Term Loans. Borrower shall have the option to prepay all, but not less than all, of the Term Loans advanced by the Lenders under this Agreement, provided Borrower (i) provides written notice to Collateral Agent of its election to prepay the Term Loans at least thirty (30) days prior to such prepayment, and (ii) pays to the Lenders on the date of such prepayment, payable to each Lender in accordance with its respective Pro Rata Share, an amount equal to the sum of (A) all outstanding principal of the Term Loans plus accrued and unpaid interest thereon through the

prepayment date, (B) the Final Payment, (C) the Prepayment Fee, plus (D) all other Obligations that are due and payable, including Lenders' Expenses and interest at the Default Rate with respect to any past due amounts.

2.3 Payment of Interest on the Credit Extensions.

(a) Interest Rate. Subject to Section 2.3(b), the principal amount outstanding under the Term Loans shall accrue interest at a floating per annum rate equal to the Basic Rate, determined by Collateral Agent on the Funding Date of the applicable Term Loan and then monthly thereafter, which interest shall be payable monthly in arrears in accordance with Sections 2.2(b) and 2.3(e). Interest shall accrue on each Term Loan commencing on, and including, the Funding Date of such Term Loan, and shall accrue on the principal amount outstanding under such Term Loan through and including the day on which such Term Loan is paid in full.

(b) Default Rate. Immediately upon the occurrence and during the continuance of an Event of Default, Obligations shall accrue interest at a floating per annum rate equal to the rate that is otherwise applicable thereto plus five percentage points (5.00%) (the "**Default Rate**"). Payment or acceptance of the increased interest rate provided in this Section 2.3(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Collateral Agent.

(c) 360-Day Year. Interest shall be computed on the basis of a three hundred sixty (360) day year, and the actual number of days elapsed.

(d) Debit of Accounts. Collateral Agent and each Lender may debit (or ACH) any deposit accounts, other than Excluded Accounts, maintained by Borrower or any of its Subsidiaries, including the Designated Deposit Account, for principal and interest payments or any other amounts Borrower owes the Lenders under the Loan Documents when due; provided that, except (i) with respect to debits (or ACH) for regularly scheduled principal and interest and (ii) as otherwise previously authorized by Borrower, Collateral Agent shall endeavor to provide notice of such debit (or ACH) contemporaneously with or promptly after such debit (or ACH), provided, however, that Collateral Agent's failure to provide such notice shall not constitute a violation of Collateral Agent's obligations under this Agreement. Any such debits (or ACH activity) shall not constitute a set-off.

(e) Payments. Except as otherwise expressly provided herein, all payments by Borrower under the Loan Documents shall be made to the respective Lender to which such payments are owed, at such Lender's office in immediately available funds on the date specified herein. Unless otherwise provided, interest is payable monthly on the Payment Date of each month. Payments of principal and/or interest received after 12:00 noon Eastern time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment is due the next Business Day and additional fees or interest, as applicable, shall continue to accrue until paid. All payments to be made by Borrower hereunder or under any other Loan Document, including payments of principal and interest, and all fees, expenses, indemnities and reimbursements, shall be made without set-off, recoupment or counterclaim, in lawful money of the United States and in immediately available funds.

2.4 Secured Promissory Notes. The Term Loans shall be evidenced by a Secured Promissory Note or Notes in the form attached as Exhibit D hereto (each a "**Secured Promissory Note**"), and shall be repayable as set forth in this Agreement. Borrower irrevocably authorizes each Lender to make or cause to be made, on or about the Funding Date of any Term Loan or at the time of receipt of any payment of principal on such Lender's Secured Promissory Note, an appropriate notation on such

Lender's Secured Promissory Note Record reflecting the making of such Term Loan or (as the case may be) the receipt of such payment. The outstanding amount of each Term Loan set forth on such Lender's Secured Promissory Note Record shall be prima facie evidence of the principal amount thereof owing and unpaid to such Lender, but the failure to record, or any error in so recording, any such amount on such Lender's Secured Promissory Note Record shall not limit or otherwise affect the obligations of Borrower under any Secured Promissory Note or any other Loan Document to make payments of principal of or interest on any Secured Promissory Note when due. Upon receipt of an affidavit of an officer of a Lender as to the loss, theft, destruction, or mutilation of its Secured Promissory Note**,** Borrower shall issue, in lieu thereof, a replacement Secured Promissory Note in the same principal amount thereof and of like tenor.

2.5 Fees. Borrower shall pay to Collateral Agent:

(a) Good Faith Deposit. An amount of Seventy Five Thousand Dollars ($75,000.00) has been received by Collateral Agent as good faith deposit from Borrower on or about March 26, 2019 and after deduction therefrom of Lenders' Expenses incurred through the Effective Date payable pursuant to Section 2.5(e) hereof, the remaining balance, if any, shall be applied towards the facility fee due on the Effective Date. For the purposes of clarity, Borrower shall be responsible for all Lender's Expenses payable pursuant to Section 2.5(e) hereof.

(b) Facility Fee. A non-refundable facility fee of up to One Hundred Eighty Seven Thousand Five Hundred Dollars ($187,500.00) to be shared between the Lenders pursuant to their respective Commitment Percentages payable as follows: (i) Sixty Two Thousand Five Hundred Dollars ($62,500.00) of the facility fee shall be due and payable and fully earned on the Effective Date, (ii) Sixty Two Thousand Five Hundred Dollars ($62,500.00) of the facility fee shall be due and payable and fully earned on the Funding Date of the Term B Loan, (iii) Twenty Five Thousand Dollars ($25,000.00) of the facility fee shall be due and payable and fully earned on the Funding Date of the Term C Loan and (iv) Thirty Seven Thousand Five Hundred Dollars ($37,500.00) of the facility fee shall be due and payable and fully earned on the Funding Date of the Term D Loan, if any;

(c) Final Payment. The Final Payment, when due hereunder, to be shared between the Lenders in accordance with their respective Pro Rata Shares;

(d) Prepayment Fee. The Prepayment Fee, when due hereunder, to be shared between the Lenders in accordance with their respective Pro Rata Shares;

(e) Lenders' Expenses. All Lenders' Expenses (including reasonable attorneys' fees and expenses for documentation and negotiation of this Agreement) incurred through and after the Effective Date, when due; and

(f) Non-Utilization Fee. A fully earned non-utilization fee equal to Two Hundred Fifty Thousand Dollars ($250,000.00), which shall be due and payable immediately upon the expiration or earlier termination of the Second Draw Period or prepayment of the entire outstanding amount of the Term Loans pursuant to Section 2.2(c) or (d) of this Agreement, if upon such expiration, earlier termination or prepayment of the entire outstanding amount of the Term Loans pursuant to Section 2.2(c) or (d) of this Agreement the Borrower has not drawn the full amount of the Term B Loan in accordance with the provisions hereof; provided, however, the non-utilization fee set forth in this Section 2.5(f) shall not become due and payable if the Second Draw Period does not commence.

2.6 Withholding. Payments received by the Lenders from Borrower hereunder will be made free and clear of and without deduction for any and all present or future taxes, levies, imposts, duties,

deductions, withholdings, assessments, fees or other charges imposed by any governmental authority (including any interest, additions to tax or penalties applicable thereto). Specifically, however, if at any time any Governmental Authority, applicable law, regulation or international agreement requires Borrower to make any withholding or deduction from any such payment or other sum payable hereunder to the Lenders, Borrower hereby covenants and agrees that the amount due from Borrower with respect to such payment or other sum payable hereunder will be increased to the extent necessary to ensure that, after the making of such required withholding or deduction, each Lender receives a net sum equal to the sum which it would have received had no withholding or deduction been required and Borrower shall pay the full amount withheld or deducted to the relevant Governmental Authority; provided, however, that borrower shall not be required to make such increased payment to a Lender who is not a U.S. Person or who has not provided a duly executed original IRS Form W-9 certifying that such Lender is exempt from U.S federal backup withholding tax. Borrower will, upon request, furnish the Lenders with proof reasonably satisfactory to the Lenders indicating that Borrower has made such withholding payment; provided, however, that Borrower need not make any withholding payment if the amount or validity of such withholding payment is contested in good faith by appropriate and timely proceedings and as to which payment in full is bonded or reserved against by Borrower. The agreements and obligations of Borrower contained in this Section 2.6 shall survive the termination of this Agreement.

3. CONDITIONS OF LOANS

3.1 Conditions Precedent to Initial Credit Extension. Each Lender's obligation to make a Term A Loan is subject to the condition precedent that Collateral Agent and each Lender shall consent to or shall have received, in form and substance satisfactory to Collateral Agent and each Lender, such documents, and completion of such other matters, as Collateral Agent and each Lender may reasonably deem necessary or appropriate, including, without limitation:

(a) original Loan Documents, each duly executed by Borrower and each Subsidiary, as applicable;

(b) duly executed original Control Agreements with respect to any Collateral Accounts maintained by Borrower or any of its Subsidiaries;

(c) duly executed original Secured Promissory Notes in favor of each Lender according to its Term A Loan Commitment Percentage;

(d) the Operating Documents and good standing certificates of Borrower and its Subsidiaries certified by the Secretary of State (or equivalent agency) of Borrower's and such Subsidiaries' jurisdiction of organization or formation and each jurisdiction in which Borrower and each Subsidiary is qualified to conduct business, each as of a date no earlier than thirty (30) days prior to the Effective Date**;**

(e) a completed Perfection Certificate for Borrower and each of its Subsidiaries;

(f) the Annual Projections, for the current calendar year;

(g) duly executed original officer's certificate for Borrower and each Subsidiary that is a party to the Loan Documents, in a form acceptable to Collateral Agent and the Lenders;

(h) certified copies, dated as of date no earlier than thirty (30) days prior to the Effective Date, of financing statement searches, as Collateral Agent shall request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing

statements either constitute Permitted Liens or have been or, in connection with the initial Credit Extension, will be terminated or released;

(i) a landlord's consent executed in favor of Collateral Agent in respect of all of Borrower's leased locations;

(j) a bailee waiver executed in favor of Collateral Agent in respect of each third party bailee where Borrower or any Subsidiary maintains Collateral having a book value in excess of Five Hundred Thousand Dollars ($500,000.00);

(k) a duly executed legal opinion of counsel to Borrower dated as of the Effective Date;

(l) evidence satisfactory to Collateral Agent and the Lenders that the insurance policies required by Section 6.5 hereof are in full force and effect, together with appropriate evidence showing loss payable and/or additional insured clauses or endorsements in favor of Collateral Agent, for the ratable benefit of the Lenders;

(m) duly executed Success Fee Letter; and

(n) payment of the fees and Lenders' Expenses then due as specified in Section 2.5 hereof.

3.2 Conditions Precedent to all Credit Extensions. The obligation of each Lender to make each Credit Extension, including the initial Credit Extension, is subject to the following conditions precedent:

(a) receipt by Collateral Agent of an executed Disbursement Letter in the form of Exhibit B attached hereto;

(b) the representations and warranties in Section 5 hereof shall be true, accurate and complete in all material respects on the date of the Disbursement Letter and on the Funding Date of each Credit Extension; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, and no Event of Default shall have occurred and be continuing or result from the Credit Extension. Each Credit Extension is Borrower's representation and warranty on that date that the representations and warranties in Section 5 hereof are true, accurate and complete in all material respects; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date;

(c) in such Lender's sole and reasonable discretion, there has not been any Material Adverse Change or any material adverse deviation by Borrower from the Annual Projections of Borrower presented to and accepted by Collateral Agent and each Lender;

(d) to the extent not delivered at the Effective Date, duly executed original Secured Promissory Notes, in number, form and content acceptable to each Lender, and in favor of each Lender according to its Commitment Percentage, with respect to each Credit Extension made by such Lender after the Effective Date; and

(e) payment of the fees and Lenders' Expenses then due as specified in Section 2.5 hereof.

3.3 Covenant to Deliver. Borrower agrees to deliver to Collateral Agent and the Lenders each item required to be delivered to Collateral Agent under this Agreement as a condition precedent to any Credit Extension. Borrower expressly agrees that a Credit Extension made prior to the receipt by Collateral Agent or any Lender of any such item shall not constitute a waiver by Collateral Agent or any Lender of Borrower's obligation to deliver such item, and any such Credit Extension in the absence of a required item shall be made in each Lender's sole discretion.

3.4 Procedures for Borrowing. Subject to the prior satisfaction of all other applicable conditions to the making of a Term Loan set forth in this Agreement, to obtain a Term Loan, Borrower shall notify the Lenders (which notice shall be irrevocable) by electronic mail, facsimile, or telephone by 12:00 noon Eastern time three (3) Business Days prior to the date the Term Loan is to be made. Together with any such electronic, facsimile or telephonic notification, Borrower shall deliver to the Lenders by electronic mail or facsimile a completed Disbursement Letter executed by a Responsible Officer or his or her designee. The Lenders may rely on any telephone notice given by a person whom a Lender reasonably believes is a Responsible Officer or designee. On the Funding Date, each Lender shall credit and/or transfer (as applicable) to the Designated Deposit Account, an amount equal to its Term Loan Commitment.

4. CREATION OF SECURITY INTEREST

4.1 Grant of Security Interest. Borrower hereby grants Collateral Agent, for the ratable benefit of the Lenders, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Collateral Agent, for the ratable benefit of the Lenders, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof. Borrower represents, warrants, and covenants that the security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral, subject only to Permitted Liens that are permitted by the terms of this Agreement to have priority to Collateral Agent's Lien. If Borrower shall acquire a commercial tort claim (as defined in the Code), Borrower, shall promptly notify Collateral Agent in a writing signed by Borrower, after Borrower becomes aware of such tort claim, as the case may be, of the general details thereof (and further details as may be required by Collateral Agent) and grant to Collateral Agent, for the ratable benefit of the Lenders, in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to Collateral Agent.

If this Agreement is terminated, Collateral Agent's Lien in the Collateral shall continue until the Obligations (other than inchoate indemnity obligations) are repaid in full in cash. Upon payment in full in cash of the Obligations (other than inchoate indemnity obligations) and at such time as the Lenders' obligation to make Credit Extensions has terminated, Collateral Agent shall, at the sole cost and expense of Borrower, release its Liens in the Collateral and all rights therein shall revert to Borrower.

4.2 Authorization to File Financing Statements. Borrower hereby authorizes Collateral Agent to file financing statements or take any other action required to perfect Collateral Agent's security interests in the Collateral, without notice to Borrower, with all appropriate jurisdictions to perfect or protect Collateral Agent's interest or rights under the Loan Documents, including a notice that any disposition of the Collateral, except to the extent permitted by the terms of this Agreement, by Borrower, or any other Person, shall be deemed to violate the rights of Collateral Agent under the Code.

4.3 Pledge of Collateral. Borrower hereby pledges, assigns and grants to Collateral Agent, for the ratable benefit of the Lenders, a security interest in all the Shares, together with all proceeds and substitutions thereof, all cash, stock and other moneys and property paid thereon, all rights to subscribe for securities declared or granted in connection therewith, and all other cash and noncash proceeds of the foregoing, as security for the performance of the Obligations. On the Effective Date, or, to the extent not certificated as of the Effective Date, within ten (10) days of the certification of any Shares, the certificate or certificates for the Shares will be delivered to Collateral Agent, accompanied by an instrument of assignment duly executed in blank by Borrower. To the extent required by the terms and conditions governing the Shares, Borrower shall cause the books of each entity whose Shares are part of the Collateral and any transfer agent to reflect the pledge of the Shares. Upon the occurrence and during the continuance of an Event of Default hereunder, Collateral Agent may effect the transfer of any securities included in the Collateral (including but not limited to the Shares) into the name of Collateral Agent and cause new (as applicable) certificates representing such securities to be issued in the name of Collateral Agent or its transferee. Borrower will execute and deliver such documents, and take or cause to be taken such actions, as Collateral Agent may reasonably request to perfect or continue the perfection of Collateral Agent's security interest in the Shares. Unless an Event of Default shall have occurred and be continuing and Borrower is either cognizant of, or has received notification from Collateral Agent of, the exercise of Collateral Agent's remedies hereunder with respect to such Event of Default, Borrower shall be entitled to exercise any voting rights with respect to the Shares and to give consents, waivers and ratifications in respect thereof, provided that no vote shall be cast or consent, waiver or ratification given or action taken which would be inconsistent with any of the terms of this Agreement or which would constitute or create any violation of any of such terms. All such rights to vote and give consents, waivers and ratifications shall be suspended upon the occurrence and during the continuance of an Event of Default once Borrower is either cognizant of, or has received notification from Collateral Agent of, the exercise of Collateral Agent's remedies hereunder with respect to such Event of Default; provided, further that if such exercise of remedies is also with respect to the Shares, all such rights of Borrower to vote and give consents, waivers and ratifications with respect to the Shares shall be terminated.

5. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Collateral Agent and the Lenders as follows:

5.1 Due Organization, Authorization: Power and Authority. Borrower and each of its Subsidiaries is duly existing and in good standing as a Registered Organization in its jurisdictions of organization or formation and Borrower and each of its Subsidiaries is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its businesses or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a Material Adverse Change. In connection with this Agreement, Borrower and each of its Subsidiaries has delivered to Collateral Agent a completed perfection certificate signed by an officer of Borrower or such Subsidiary (each as updated from time to time, as permitted hereunder, a "**Perfection Certificate**" and collectively, the "**Perfection Certificates**"). Borrower represents and warrants that (a) Borrower and each of its Subsidiaries' exact legal name is that which is indicated on its respective Perfection Certificate and on the signature page of each Loan Document to which it is a party; (b) Borrower and each of its Subsidiaries is an organization of the type and is organized in the jurisdiction set forth on its respective Perfection Certificate; (c) each Perfection Certificate accurately sets forth each of Borrower's and its Subsidiaries' organizational identification number or accurately states that Borrower or such Subsidiary has none; (d) each Perfection Certificate accurately sets forth Borrower's and each of its Subsidiaries' place of business, or, if more than one, its chief executive office as well as Borrower's and each of its Subsidiaries' mailing address (if different than its chief executive office); (e) Borrower and each of its Subsidiaries (and each of its respective predecessors) have not, in the past five (5) years,

changed its jurisdiction of organization, organizational structure or type, or any organizational number assigned by its jurisdiction; and (f) all other information set forth on the Perfection Certificates pertaining to Borrower and each of its Subsidiaries, is accurate and complete (it being understood and agreed that Borrower and each of its Subsidiaries may from time to time update certain information in the Perfection Certificates (including the information set forth in clause (d) above) after the Effective Date to the extent permitted by one or more specific provisions in this Agreement); such updated Perfection Certificates subject to the review and approval of Collateral Agent. If Borrower or any of its Subsidiaries is not now a Registered Organization but later becomes one, Borrower shall notify Collateral Agent of such occurrence and provide Collateral Agent with such Person's organizational identification number within five (5) Business Days of receiving such organizational identification number.

The execution, delivery and performance by Borrower and each of its Subsidiaries of the Loan Documents to which it is a party have been duly authorized, and do not (i) conflict with any of Borrower's or such Subsidiaries' organizational documents, including its respective Operating Documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law applicable thereto, (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or such Subsidiary, or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect) or are being obtained pursuant to Section 6.1(b), or (v) constitute an event of default under any material agreement by which Borrower or any of such Subsidiaries, or their respective properties, is bound. Neither Borrower nor any of its Subsidiaries is in default under any agreement to which it is a party or by which it or any of its assets is bound in which such default could reasonably be expected to have a Material Adverse Change.

5.2 Collateral.

(a) Borrower and each its Subsidiaries have good title to, have rights in, and the power to transfer each item of the Collateral upon which it purports to grant a Lien under the Loan Documents, free and clear of any and all Liens except Permitted Liens, and neither Borrower nor any of its Subsidiaries have any Deposit Accounts, Securities Accounts, Commodity Accounts or other investment accounts other than the Collateral Accounts or the other investment accounts, if any, described in the Perfection Certificates delivered to Collateral Agent in connection herewith (as the same may be updated from time to time, provided that any such updates shall be in form and substance acceptable to Collateral Agent and each Lender, in its sole discretion) with respect of which Borrower or such Subsidiary has given Collateral Agent notice and taken such actions as are necessary to give Collateral Agent a perfected security interest therein to the extent required hereunder. The Accounts are bona fide, existing obligations of the Account Debtors.

(b) On the Effective Date, and except as disclosed on the Perfection Certificate (i) the Collateral is not in the possession of any third party bailee (such as a warehouse), and (ii) no such third party bailee possesses components of the Collateral in excess of Five Hundred Thousand Dollars ($500,000.00). None of the components of the Collateral with a book value in excess of Five Hundred Thousand Dollars ($500,000.00) shall be maintained at locations other than as disclosed in the Perfection Certificates on the Effective Date or as permitted pursuant to Section 6.11.

(c) All Inventory is in all material respects of good and marketable quality, free from material defects.

(d) Borrower and each of its Subsidiaries is the sole owner of the Intellectual Property each respectively purports to own, free and clear of all Liens other than Permitted Liens. (i) Each of Borrower's and its Subsidiaries' Patents and which is material to Borrower's business is valid and enforceable and no part of Borrower's or its Subsidiaries' Intellectual Property material to Borrower's business has been judged invalid or unenforceable, in whole or in part, and (ii) to the best of Borrower's knowledge, no claim has been made that any part of the Intellectual Property or any practice by Borrower or its Subsidiaries violates the rights of any third party except to the extent such claim could not reasonably be expected to have a Material Adverse Change. Except as noted on the Perfection Certificates, neither Borrower nor any of its Subsidiaries is a party to, nor is bound by, any material license or other material agreement with respect to which Borrower or such Subsidiary is the licensee that (i) prohibits or otherwise restricts Borrower or its Subsidiaries from granting a security interest in Borrower's or such Subsidiaries' interest in such material license or material agreement or any other property, or (ii) for which a default under or termination of could interfere with Collateral Agent's or any Lender's right to sell any Collateral. Borrower shall provide written notice to Collateral Agent and each Lender within ten (10) days of Borrower or any of its Subsidiaries entering into or becoming bound by any license or agreement with respect to which Borrower or any Subsidiary is the licensee (other than over-the-counter software that is commercially available to the public).

5.3 Litigation. Except as disclosed (i) on the Perfection Certificates, or (ii) in accordance with Section 6.9 hereof, there are no actions, suits, investigations, or proceedings pending or, to the knowledge of the Responsible Officers, threatened in writing by or against Borrower or any of its Subsidiaries which could reasonably be expected to result in damage or costs to Borrower or such Subsidiaries in excess of more than Two Hundred Fifty Thousand Dollars ($250,000.00).

5.4 No Material Deterioration in Financial Condition; Financial Statements. All consolidated financial statements for Borrower and its Subsidiaries, delivered to Collateral Agent fairly present, in conformity with GAAP (as to unaudited financial statements, subject to normal year-end adjustments and the absence of footnotes), in all material respects, as of the dates and for the time periods presented therein, the consolidated financial condition of Borrower and its Subsidiaries, and the consolidated results of operations of Borrower and its Subsidiaries as of the dates and for the periods presented. Lender understands that interim financial statements may not be audited and may be subject to normal year-end adjustments and the absence of footnotes. There has not been any material deterioration in the consolidated financial condition of Borrower and its Subsidiaries since the date of the most recent financial statements submitted to any Lender.

5.5 Solvency. Borrower is solvent and Borrower and its Subsidiaries taken as a whole are Solvent.

5.6 Regulatory Compliance. Neither Borrower nor any of its Subsidiaries is an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act of 1940, as amended. Neither Borrower nor any of its Subsidiaries is engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors). Borrower and each of its Subsidiaries has complied in all material respects with the Federal Fair Labor Standards Act. Neither Borrower nor any of its Subsidiaries is a "holding company" or an "affiliate" of a "holding company" or a "subsidiary company" of a "holding company" as each term is defined and used in the Public Utility Holding Company Act of 2005. Neither Borrower nor any of its Subsidiaries has violated any laws, ordinances or rules, the violation of which could reasonably be expected to have a Material Adverse Change. Neither Borrower's nor any of its Subsidiaries' properties or assets has been used by Borrower or such Subsidiary or, to Borrower's knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than in

material compliance with applicable laws. Borrower and each of its Subsidiaries has obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary to continue their respective businesses as currently conducted.

None of Borrower, any of its Subsidiaries, or any of Borrower's or its Subsidiaries' Affiliates or any of their respective agents acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement is (i) in violation of any Anti-Terrorism Law, (ii) engaging in or conspiring to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law, or (iii) is a Blocked Person. None of Borrower, any of its Subsidiaries, or to the knowledge of Borrower and any of their Affiliates or agents, acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement, (x) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (y) deals in, or otherwise engages in any transaction relating to, any property or interest in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law.

5.7 Investments. Neither Borrower nor any of its Subsidiaries owns any stock, shares, partnership interests or other equity securities except for Permitted Investments.

5.8 Tax Returns and Payments; Pension Contributions. Borrower and each of its Subsidiaries has timely filed or filed extensions for all material required tax returns and reports, and Borrower and each of its Subsidiaries, has timely paid all federal taxes, assessments, deposits and contributions and all material foreign, state, and local taxes, assessments, deposits and contributions (i.e., such foreign, state, and local taxes, assessments, deposits and contributions in an aggregate amount of $25,000 or more) owed by Borrower and such Subsidiaries, in all jurisdictions in which Borrower or any such Subsidiary is subject to taxes, including the United States, unless such taxes are being contested in accordance with the following sentence. Borrower and each of its Subsidiaries, may defer payment of any contested taxes, provided that Borrower or such Subsidiary, (a) in good faith contests its obligation to pay the taxes by appropriate proceedings promptly and diligently instituted and conducted, (b) notifies Collateral Agent in writing of the commencement of, and any material development in, the proceedings, and (c) posts bonds or takes any other steps required to prevent the Governmental Authority levying such contested taxes from obtaining a Lien upon any of the Collateral that is other than a "**Permitted Lien**." Neither Borrower nor any of its Subsidiaries is aware of any claims or adjustments proposed for any of Borrower's or such Subsidiaries', prior tax years which could result in material additional taxes becoming due and payable by Borrower or its Subsidiaries. Borrower and each of its Subsidiaries have paid all amounts necessary to fund all material present pension, profit sharing and deferred compensation plans in accordance with their terms, and neither Borrower nor any of its Subsidiaries have, withdrawn from participation in, and have not permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any material liability of Borrower or its Subsidiaries, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other Governmental Authority.

5.9 Use of Proceeds. Borrower shall use the proceeds of the Credit Extensions solely as working capital and to fund its general business requirements in accordance with the provisions of this Agreement, and not for personal, family, household or agricultural purposes.

5.10 Full Disclosure. No written representation, warranty or other statement of Borrower or any of its Subsidiaries in any certificate or written statement given to Collateral Agent or any Lender, as of the date such representation, warranty, or other statement was made, taken together with all such

written certificates and written statements given to Collateral Agent or any Lender, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements not misleading (it being recognized that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

5.11 Definition of "Knowledge." For purposes of the Loan Documents, whenever a representation or warranty is made to Borrower's knowledge or awareness, to the "best of" Borrower's knowledge, or with a similar qualification, knowledge or awareness means the actual knowledge, after reasonable investigation, of the Responsible Officers.

6. AFFIRMATIVE COVENANTS

Borrower shall, and shall cause each of its Subsidiaries to, do all of the following:

6.1 Government Compliance.

(a) Maintain its and all its Subsidiaries' legal existence and good standing in their respective jurisdictions of organization and maintain qualification in each jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Change. Comply with all laws, ordinances and regulations to which Borrower or any of its Subsidiaries is subject, the noncompliance with which could reasonably be expected to have a Material Adverse Change.

(b) Obtain and keep in full force and effect, all of the material Governmental Approvals necessary for the performance by Borrower and its Subsidiaries of their respective businesses and obligations under the Loan Documents and the grant of a security interest to Collateral Agent for the ratable benefit of the Lenders, in all of the Collateral. Borrower shall promptly provide copies to Collateral Agent of any material Governmental Approvals obtained by Borrower or any of its Subsidiaries.

6.2 Financial Statements, Reports, Certificates.

(a) Deliver to each Lender:

(i) as soon as available, but no later than thirty (30) days after the last day of each month, a company prepared consolidated balance sheet, income statement and cash flow statement covering the consolidated operations of Borrower and its Subsidiaries for such month certified by a Responsible Officer and in a form reasonably acceptable to Collateral Agent;

(ii) as soon as available, but no later than one hundred eighty (180) days after the last day of Borrower's fiscal year or within five (5) days of filing with the SEC, audited consolidated financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements (other than any "going concern" solely in connection with the need to raise equity and negative profits) from an independent certified public accounting firm acceptable to Collateral Agent in its reasonable discretion; provided that certified public accounting firms of recognized national standing shall be acceptable to the Collateral Agent;

(iii) as soon as available after approval thereof by Borrower's Board of Directors, but no later than thirty (30) days after the last day of each of Borrower's fiscal years, Borrower's annual financial projections for the entire current fiscal year as approved by Borrower's Board of Directors, accompanied by annual financial projections that shall be in a month-by-month

format (which, the avoidance of doubt, do not require approval by Borrower's Board of Directors) (such annual financial projections as originally delivered to Collateral Agent and the Lenders are referred to herein as the "**Annual Projections**"; provided that, any revisions of the Annual Projections approved by Borrower's Board of Directors shall be delivered to Collateral Agent and the Lenders no later than seven (7) days after such approval);

(iv) within five (5) days of delivery, copies of all statements, reports and notices made available to Borrower's security holders or holders of Subordinated Debt;

(v) in the event that Borrower becomes subject to the reporting requirements under the Securities Exchange Act of 1934, as amended, within five (5) days of filing, all reports on Form 10-K, 10-Q and 8-K filed with the Securities and Exchange Commission,

(vi) prompt notice of any material changes to the capitalization table of Borrower and of any changes to the Operating Documents of Borrower or any of its Subsidiaries, together with any copies reflecting such amendments or changes with respect thereto;

(vii) prompt notice of: (A) any material change in the composition of the Intellectual Property, (B) the registration of any copyright, including any subsequent ownership right of Borrower or any of its Subsidiaries in or to any copyright, patent or trademark, including a copy of any such registration, and (C) any event that could reasonably be expected to materially and adversely affect the value of the Intellectual Property;

(viii) as soon as available, but no later than thirty (30) days after the last day of each month, copies of the month-end account statements for each Collateral Account maintained by Borrower or its Subsidiaries, which statements may be provided to Collateral Agent and each Lender by Borrower or directly from the applicable institution(s), and

(ix) other information as reasonably requested by Collateral Agent or any Lender.

Notwithstanding the foregoing, documents required to be delivered pursuant to the terms hereof (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which Borrower posts such documents, or provides a link thereto, on Borrower's website on the internet at Borrower's website address.

(b) Concurrently with the delivery of the financial statements specified in Section 6.2(a)(i) above but no later than thirty (30) days after the last day of each month, deliver to each Lender, a duly completed Compliance Certificate signed by a Responsible Officer.

(c) Keep proper books of record and account in accordance with GAAP in all material respects, in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities. Borrower shall, and shall cause each of its Subsidiaries to, allow, at the sole cost of Borrower, Collateral Agent or any Lender, during regular business hours upon reasonable prior notice (provided that no notice shall be required when an Event of Default has occurred and is continuing), to visit and inspect any of its properties, to examine and make abstracts or copies from any of its books and records, and to conduct a collateral audit and analysis of its operations and the Collateral. Such audits shall be conducted no more often than twice every year unless (and more frequently if) an Event of Default has occurred and is continuing.

6.3 Inventory; Returns. Keep all Inventory in good and marketable condition, free from material defects. Returns and allowances between Borrower, or any of its Subsidiaries, and their respective Account Debtors shall follow Borrower's, or such Subsidiary's, customary practices as they exist at the Effective Date. Borrower must promptly notify Collateral Agent and the Lenders of all returns, recoveries, disputes and claims that involve more than Five Hundred Thousand Dollars ($500,000.00) individually or in the aggregate in any calendar year.

6.4 Taxes; Pensions. Timely file and require each of its Subsidiaries to timely file, all required tax returns and reports or extensions therefor (which are timely filed and accepted and approved by the applicable Governmental Authority) and timely pay, and require each of its Subsidiaries to timely file, all federal taxes, assessments, deposits and contributions and all material foreign, state, and local taxes, assessments, deposits and contributions (i.e., such foreign, state, and local taxes, assessments, deposits and contributions in an aggregate amount of $25,000 or more) owed by Borrower or its Subsidiaries, except for deferred payment of any taxes contested pursuant to the terms of Section 5.8 hereof, and shall deliver to Lenders, on demand, appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with the terms of such plans.

6.5 Insurance. Keep Borrower's and its Subsidiaries' business and the Collateral insured for risks and in amounts standard for companies in Borrower's and its Subsidiaries' industry and location and as Collateral Agent may reasonably request. Insurance policies shall be in a form, with companies, and in amounts that are reasonably satisfactory to Collateral Agent and Lenders. All property policies shall have a lender's loss payable endorsement showing Collateral Agent as lender loss payee and waive subrogation against Collateral Agent, and all liability policies shall show, or have endorsements showing, Collateral Agent, as additional insured. The Collateral Agent shall be named as lender loss payee and/or additional insured with respect to any such insurance providing coverage in respect of any Collateral, and each provider of any such insurance shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to the Collateral Agent, that it will give the Collateral Agent thirty (30) days prior written notice before any such policy or policies shall be materially altered or canceled. At Collateral Agent's request, Borrower shall deliver certified copies of policies and evidence of all premium payments. Proceeds payable under any policy shall, at Collateral Agent's option, be payable to Collateral Agent, for the ratable benefit of the Lenders, on account of the Obligations. Notwithstanding the foregoing, (a) so long as no Event of Default has occurred and is continuing, Borrower shall have the option of applying the proceeds of any casualty policy up to Five Hundred Thousand Dollars ($500,000.00) with respect to any loss, but not exceeding Five Hundred Thousand Dollars ($500,000.00), in the aggregate for all losses under all casualty policies in any one year, toward the replacement or repair of destroyed or damaged property; provided that any such replaced or repaired property (i) shall be of equal or like value as the replaced or repaired Collateral and (ii) shall be deemed Collateral in which Collateral Agent has been granted a first priority security interest, and (b) after the occurrence and during the continuance of an Event of Default, all proceeds payable under such casualty policy shall, at the option of Collateral Agent, be payable to Collateral Agent, for the ratable benefit of the Lenders, on account of the Obligations. If Borrower or any of its Subsidiaries fails to obtain insurance as required under this Section 6.5 or to pay any amount or furnish any required proof of payment to third persons, Collateral Agent and/or any Lender may make, at Borrower's expense, all or part of such payment or obtain such insurance policies required in this Section 6.5, and take any action under the policies Collateral Agent or such Lender deems prudent.

6.6 Operating Accounts.

(a) Maintain all of Borrower's and its Subsidiaries' (that are Loan Parties) Collateral Accounts in accounts which are subject to a Control Agreement in favor of Collateral Agent except as permitted in clause (b) below.

(b) Borrower shall provide Collateral Agent five (5) days' prior written notice before Borrower or any of its Subsidiaries establishes any Collateral Account, other than Excluded Accounts. In addition, for each Collateral Account that Borrower or any other Loan Party, at any time maintains, Borrower or such other Loan Party shall cause the applicable bank or financial institution at or with which such Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Collateral Agent's Lien in such Collateral Account in accordance with the terms hereunder prior to the establishment of such Collateral Account, which Control Agreement may not be terminated without prior written consent of Collateral Agent. The provisions of the previous sentence and clause (a) above shall not apply to Excluded Accounts.

(c) Neither Borrower nor any of its Subsidiaries shall maintain any Collateral Accounts except Collateral Accounts maintained in accordance with Sections 6.6(a) and (b).

6.7 Protection of Intellectual Property Rights. Borrower and each of its Subsidiaries shall: (a) use commercially reasonable efforts to protect, defend and maintain the validity and enforceability of its Intellectual Property that is material to Borrower's business; (b) promptly, upon becoming aware, advise Collateral Agent in writing of material infringement by a third party of its Intellectual Property; and (c) not allow any Intellectual Property material to Borrower's business to be abandoned, forfeited or dedicated to the public without Collateral Agent's prior written consent. If Borrower or any of its Subsidiaries (i) obtains any patent, registered trademark or servicemark, registered copyright, registered mask work, or any pending application for any of the foregoing, whether as owner, licensee or otherwise, or (ii) applies for any patent or the registration of any trademark or servicemark, then Borrower or such Subsidiary shall substantially contemporaneously provide written notice thereof to Collateral Agent and each Lender and shall execute such intellectual property security agreements and other documents and take such other actions as Collateral Agent shall reasonably request in its good faith business judgment to perfect and maintain a first priority perfected security interest in favor of Collateral Agent (except for Permitted Liens that are permitted by the terms of this Agreement to have priority over Collateral Agent's Lien), for the ratable benefit of the Lenders, in such property. If Borrower or any of its Subsidiaries decides to register any copyrights or mask works in the United States Copyright Office, Borrower or such Subsidiary shall: (x) provide Collateral Agent and each Lender with prior written notice of Borrower's or such Subsidiary's intent to register such copyrights or mask works together with a copy of the application it intends to file with the United States Copyright Office (excluding exhibits thereto); (y) execute an intellectual property security agreement and such other documents and take such other actions as Collateral Agent may reasonably request in its good faith business judgment to perfect and maintain a first priority perfected security interest in favor of Collateral Agent (except for Permitted Liens that are permitted by the terms of this Agreement to have priority over Collateral Agent's Lien), for the ratable benefit of the Lenders, in the copyrights or mask works intended to be registered with the United States Copyright Office; and (z) record such intellectual property security agreement with the United States Copyright Office contemporaneously with filing the copyright or mask work application(s) with the United States Copyright Office. Borrower or such Subsidiary shall promptly provide to Collateral Agent and each Lender with evidence of the recording of the intellectual property security agreement necessary for Collateral Agent to perfect and maintain a first priority perfected security interest in such property (except for Permitted Liens that are permitted by the terms of this Agreement to have priority over Collateral Agent's).

6.8 Litigation Cooperation. Commencing on the Effective Date and continuing through the termination of this Agreement, make available to Collateral Agent and the Lenders, without expense to Collateral Agent or the Lenders, Borrower and each of Borrower's officers, employees and agents and Borrower's Books, to the extent that Collateral Agent or any Lender may reasonably deem them necessary to prosecute or defend any third-party suit or proceeding instituted by or against Collateral Agent or any Lender with respect to any Collateral or relating to Borrower.

6.9 Notices of Litigation and Default. Borrower will give prompt written notice to Collateral Agent and the Lenders of any litigation or governmental proceedings pending or threatened (in writing) against Borrower or any of its Subsidiaries, which could reasonably be expected to result in damages or costs to Borrower or any of its Subsidiaries of Two Hundred Fifty Thousand Dollars ($250,000.00) or more or which could reasonably be expected to have a Material Adverse Change. Without limiting or contradicting any other more specific provision of this Agreement, promptly (and in any event within three (3) Business Days) upon Borrower becoming aware of the existence of any Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default, Borrower shall give written notice to Collateral Agent and the Lenders of such occurrence, which such notice shall include a reasonably detailed description of such Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default.

6.10 Financial Covenant. Commencing with the earliest of (A) quarter ending June 30, 2021, (B) the month immediately after the Funding Date of Term C Loan or (C) the month immediately after the Funding Date of Term D Loan, Borrower shall continue to achieve the following, to be tested as of the last day of each applicable month, on a consolidated basis with respect to Borrower and its Subsidiaries: revenues for the six months ended at the end of the applicable month equal to the greater of (A) seventy five percent (75%) of the revenues projected for such period in the Approved Forecast or (B) the greatest of (i) Fifteen Million Dollars ($15,000,000.00), if neither Term C Loan nor Term D Loan has been drawn at the applicable time, (ii) Twenty Million Dollars ($20,000,000.00), if Term C Loan has been drawn at the applicable time but the Term D Loan has not been drawn at the applicable time or (iii) Twenty Five Million Dollars ($25,000,000.00), if Term C Loan and Term D Loan have been drawn at the applicable time. Borrower must deliver the Approved Forecast to Collateral Agent no later than the earliest of (A) December 31, 2020, (B) Funding Date of Term C Loan or (C) Funding Date of Term D Loan.

6.11 Landlord Waivers; Bailee Waivers. In the event that Borrower or any of its Subsidiaries, after the Effective Date, intends to add any new offices or business locations, including warehouses, or otherwise store any portion of the Collateral with a bailee, in each case pursuant to Section 7.2, then Borrower or such Subsidiary shall first notify Collateral Agent in writing about the addition of such new office, business location or storing such portion of the Collateral with such bailee, as applicable, and will also in the case of Borrower or any other Loan Party, in the event that the new location is the chief executive office of the Borrower or such Loan Party or the Collateral at any such new location or bailee has a book value in excess of Five Hundred Thousand Dollars ($500,000.00) in the aggregate, cause such bailee or landlord, as applicable, to execute and deliver a bailee waiver or landlord waiver, as applicable, in form and substance reasonably satisfactory to Collateral Agent prior to the addition of any such new offices or business locations, or any such storage with or delivery to any such bailee, as the case may be.

6.12 Creation/Acquisition of Subsidiaries. In the event Borrower, or any of its Subsidiaries creates or acquires any Subsidiary, Borrower shall provide prior written notice to Collateral Agent and each Lender of the creation or acquisition of such new Subsidiary and take all such action as may be reasonably required by Collateral Agent or any Lender to cause each such Subsidiary to become a co-Borrower hereunder or to guarantee the Obligations of Borrower under the Loan Documents and, in each

case, grant a continuing pledge and security interest in and to the assets of such Subsidiary (substantially as described on Exhibit A hereto); and Borrower (or its Subsidiary, as applicable) shall grant and pledge to Collateral Agent, for the ratable benefit of the Lenders, a perfected security interest in the Shares; provided, however, that solely in the circumstance in which Borrower or any Subsidiary creates or acquires a Foreign Subsidiary in an acquisition permitted by Section 7.7 hereof or otherwise approved by the Required Lenders, such Foreign Subsidiary shall not be required to guarantee the Obligations of Borrower under the Loan Documents and grant a continuing pledge and security interest in and to the assets of such Foreign Subsidiary.

6.13 Further Assurances.

(a) Execute any further instruments and take further action as Collateral Agent or any Lender reasonably requests to perfect or continue Collateral Agent's Lien in the Collateral or to effect the purposes of this Agreement.

(b) Deliver to Collateral Agent and Lenders, within five (5) days after the same are sent or received, copies of all material correspondence, reports, documents and other filings with any Governmental Authority that could reasonably be expected to have a material adverse effect on any of the Governmental Approvals material to Borrower's business or otherwise could reasonably be expected to have a Material Adverse Change.

7. NEGATIVE COVENANTS

Borrower shall not, and shall not permit any of its Subsidiaries to, do any of the following without the prior written consent of the Required Lenders:

7.1 Dispositions. Convey, sell, lease, transfer, assign, or otherwise dispose of (collectively, "**Transfer**"), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, except for Transfers (a) of Inventory in the ordinary course of business; (b) of worn out, surplus or obsolete Equipment; (c) in connection with Permitted Liens, Permitted Investments and Permitted Licenses; (d) from any Subsidiary of Borrower to Borrower; (e) of cash and Cash Equivalents in connection with transactions not prohibited hereunder, in the ordinary course of business and approved by the Borrower's Board of Directors or consistent with the then applicable Annual Projections; and (f) other Transfers of property having a book value not exceeding exceed Five Hundred Thousand Dollars ($500,000.00) in the aggregate during any fiscal year.

7.2 Changes in Business, Management, Ownership, or Business Locations. (a) Engage in or permit any of its Subsidiaries to engage in any business other than the businesses engaged in by Borrower as of the Effective Date or reasonably related thereto; (b) liquidate or dissolve; or (c) (i) any Key Person shall cease to be actively engaged in the management of Borrower unless written notice thereof is provided to Collateral Agent within five (5) Business Days of such change, or (ii) enter into any transaction or series of related transactions in which the stockholders of Borrower who were not stockholders immediately prior to the first such transaction own more than forty nine percent (49%) of the voting stock of Borrower immediately after giving effect to such transaction or related series of such transactions (other than by the sale of Borrower's equity securities in a public offering, a private placement of public equity or to venture capital investors so long as Borrower identifies to Collateral Agent the venture capital investors prior to the closing of the transaction). Borrower shall not, without at least thirty (30) days' prior written notice to Collateral Agent: (A) add any new offices or business locations, including warehouses (unless such new offices or business locations (i) contain less than Five Hundred Thousand Dollars ($500,000.00) in assets or property of Borrower or any of its Subsidiaries and (ii) are not Borrower's or its Subsidiaries' chief executive office); (B) change its jurisdiction of

organization, (C) change its organizational structure or type, (D) change its legal name, or (E) change any organizational number (if any) assigned by its jurisdiction of organization.

7.3 Mergers or Acquisitions. Merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock, shares or property of another Person. A Subsidiary may merge or consolidate into another Subsidiary (provided such surviving Subsidiary is a "co-Borrower" hereunder or has provided a secured Guaranty of Borrower's Obligations hereunder) or with (or into) Borrower provided Borrower is the surviving legal entity, and as long as no Event of Default is occurring prior thereto or arises as a result therefrom. Without limiting the foregoing, Borrower shall not, without Collateral Agent's prior written consent, enter into any binding contractual arrangement with any Person to attempt to facilitate a merger or acquisition of Borrower, unless (i) no Event of Default exists when such agreement is entered into by Borrower, (ii) such agreement does not give such Person the right to claim any fees, payments or damages from Borrower in excess of Five Hundred Thousand Dollars ($500,000.00) as a result of any failure to proceed with or close such merger or acquisition, and (iii) Borrower notifies Collateral Agent in advance of entering into such an agreement.

7.4 Indebtedness. Create, incur, assume, or be liable for any Indebtedness, or permit any Subsidiary to do so, other than Permitted Indebtedness.

7.5 Encumbrance. Create, incur, allow, or suffer any Lien on any of its property, or assign or convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, or permit any Collateral not to be subject to the first priority security interest granted herein (except for Permitted Liens that are permitted by the terms of this Agreement to have priority over Collateral Agent's Lien), or enter into any agreement, document, instrument or other arrangement (except with or in favor of Collateral Agent, for the ratable benefit of the Lenders) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower, or any of its Subsidiaries, from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's or such Subsidiary's Intellectual Property, except as is otherwise permitted in Section 7.1 hereof and the definition of "**Permitted Liens**" herein.

7.6 Maintenance of Collateral Accounts. Maintain any Collateral Account except pursuant to the terms of Section 6.6 hereof.

7.7 Distributions; Investments. (a) Pay any dividends (other than dividends payable solely in capital stock) or make any distribution or payment in respect of or redeem, retire or purchase any capital stock except that Borrower or any Subsidiary may (i) repurchase the stock of current or former employees, officers, directors or consultants so long as such repurchases do not exceed Five Hundred Thousand Dollars ($500,000.00) in the aggregate per fiscal year, (ii) repurchase the stock of current or former employees, officers, directors or consultants pursuant to stock repurchase agreements by the cancellation of indebtedness owed by such former employees, directors, officers or consultants, provided that the aggregate amount of indebtedness cancelled pursuant to this clause (ii) does not exceed Five Hundred Thousand Dollars ($500,000.00) per fiscal year, (iii) cash payments in lieu of the issuance of fractional shares upon conversion of convertible securities so long as the aggregate amount of such cash payments does not exceed Ten Thousand Dollars ($10,000.00) in any given fiscal year, (iv) conversions of any of its convertible securities into other securities pursuant to the terms of such convertible securities or otherwise in exchange thereof, provided, however, no cash payments by Borrower or any of its Subsidiaries are made or become due in connection with such conversion or exchange, and (v) dividends or distributions by any Subsidiary of Borrower to Borrower; or (b) directly or indirectly make any Investment other than Permitted Investments, or permit any of its Subsidiaries to do so.

7.8 Transactions with Affiliates. Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower or any of its Subsidiaries, except for (a) transactions that are in the ordinary course of Borrower's or such Subsidiary's business, upon fair and reasonable terms that are no less favorable to Borrower or such Subsidiary than would be obtained in an arm's length transaction with a non-affiliated Person, (b) Subordinated Debt or equity investments by Borrower's investors in Borrower or its Subsidiaries, (c) any transaction contemplated in Section 7.1, (d) compensation and indemnification of, and other employment arrangements with, directors, officers and employees of Borrower or any Subsidiary, in each case, entered into in the ordinary course of business in accordance with Borrower's Annual Projections and corporate governance practices, (e) loans and advances otherwise explicitly permitted hereunder to be made to the applicable Affiliate and (f) transactions between Borrower and any Subsidiaries of Borrower otherwise explicitly permitted by the terms of this Agreement.

7.9 Subordinated Debt. (a) Make or permit any payment on any Subordinated Debt, except under the terms of the subordination, intercreditor, or other similar agreement to which such Subordinated Debt is subject, or (b) amend any provision in any document relating to the Subordinated Debt which would increase the amount thereof or adversely affect the subordination thereof to Obligations owed to the Lenders.

7.10 Compliance. Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Credit Extension for that purpose; fail to meet the minimum funding requirements of ERISA, permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur; fail to comply with the Federal Fair Labor Standards Act or violate any other law or regulation, if the violation could reasonably be expected to have a Material Adverse Change, or permit any of its Subsidiaries to do so; withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower or any of its Subsidiaries, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other Governmental Authority.

7.11 Compliance with Anti-Terrorism Laws. Collateral Agent hereby notifies Borrower and each of its Subsidiaries that pursuant to the requirements of Anti-Terrorism Laws, and Collateral Agent's policies and practices, Collateral Agent is required to obtain, verify and record certain information and documentation that identifies Borrower and each of its Subsidiaries and their principals, which information includes the name and address of Borrower and each of its Subsidiaries and their principals and such other information that will allow Collateral Agent to identify such party in accordance with Anti-Terrorism Laws. Neither Borrower nor any of its Subsidiaries shall, nor shall Borrower or any of its Subsidiaries permit any Affiliate to, directly or indirectly, knowingly enter into any documents, instruments, agreements or contracts with any Person listed on the OFAC Lists. Borrower and each of its Subsidiaries shall immediately notify Collateral Agent if Borrower or such Subsidiary has knowledge that Borrower, or any Subsidiary or Affiliate of Borrower, is listed on the OFAC Lists or (a) is convicted on, (b) pleads *nolo contendere* to, (c) is indicted on, or (d) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering. Neither Borrower nor any of its Subsidiaries shall, nor shall Borrower or any of its Subsidiaries, permit any Affiliate to, directly or indirectly, (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including, without limitation, the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or

interests in property blocked pursuant to Executive Order No. 13224 or any similar executive order or other Anti-Terrorism Law, or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224 or other Anti-Terrorism Law.

7.12 Aggregate Value of Subsidiaries' Assets. Let the aggregate value of all assets held by all of the Subsidiaries (that are neither co-Borrowers nor Guarantors) to exceed Five Hundred Thousand Dollars ($500,000.00) at any given time or let any Subsidiary (that is neither co-Borrower nor a Guarantor) own any Intellectual Property.

8. EVENTS OF DEFAULT

Any one of the following shall constitute an event of default (an "**Event of Default**") under this Agreement:

8.1 Payment Default. Borrower fails to (a) make any payment of principal or interest on any Credit Extension on its due date, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day grace period shall not apply to payments due on the Maturity Date or the date of acceleration pursuant to Section 9.1 (a) hereof). During the cure period, the failure to cure the payment default is not an Event of Default (but no Credit Extension will be made during the cure period);

8.2 Covenant Default.

(a) Borrower or any of its Subsidiaries fails or neglects to perform any obligation in Sections 6.2 (Financial Statements, Reports, Certificates), 6.4 (Taxes), 6.5 (Insurance), 6.6 (Operating Accounts), 6.7 (Protection of Intellectual Property Rights), 6.9 (Notice of Litigation and Default), 6.10 (Financial Covenant), 6.11 (Landlord Waivers; Bailee Waivers), 6.12 (Creation/Acquisition of Subsidiaries) or 6.13 (Further Assurances) or Borrower violates any covenant in Section 7; or

(b) Borrower, or any of its Subsidiaries, fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents, and as to any default (other than those specified in this Section 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within ten (10) days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Credit Extensions shall be made during such cure period). Grace periods provided under this Section shall not apply, among other things, to financial covenants or any other covenants set forth in subsection (a) above;

8.3 Material Adverse Change. A Material Adverse Change occurs;

8.4 Attachment; Levy; Restraint on Business.

(a) The service of process seeking to attach, by trustee or similar process, any funds of Borrower or any of its Subsidiaries or of any entity under control of Borrower or its Subsidiaries on deposit with any Lender or any Lender's Affiliate or any bank or other institution at which Borrower or any of its Subsidiaries maintains a Collateral Account, or (ii) a notice of lien, levy, or assessment is filed against Borrower or any of its Subsidiaries or their respective assets by any government agency, and the

same under subclauses (i) and (ii) hereof are not, within ten (10) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); provided, however, no Credit Extensions shall be made during any ten (10) day cure period; and

(b) (i) any material portion of Borrower's or any of its Subsidiaries' assets is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower or any of its Subsidiaries from conducting any part of its business;

8.5 Insolvency. (a) Borrower or any of its Subsidiaries is or becomes Insolvent; (b) Borrower or any of its Subsidiaries begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower or any of its Subsidiaries and not dismissed or stayed within forty-five (45) days (but no Credit Extensions shall be made while Borrower or any Subsidiary is Insolvent and/or until any Insolvency Proceeding is dismissed);

8.6 Other Agreements. There is a default in any agreement to which Borrower or any of its Subsidiaries is a party with a third party or parties resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount in excess of Five Hundred Thousand Dollars ($500,000.00) or that could reasonably be expected to have a Material Adverse Change; provided, however, that the Event of Default under this Section 8.6 caused by the occurrence of a breach or default under such other agreement shall be cured or waived for purposes of this Agreement upon Collateral Agent receiving written notice from the party asserting such breach or default of such cure or waiver of the breach or default under such other agreement, if at the time of such cure or waiver under such other agreement (x) Collateral Agent or any Lender has not declared an Event of Default under this Agreement and/or exercised any rights with respect thereto; (y) any such cure or waiver does not result in an Event of Default under any other provision of this Agreement or any Loan Document; and (z) in connection with any such cure or waiver under such other agreement, the terms of any agreement with such third party are not modified or amended in any manner which could in the good faith business judgment of Collateral Agent be materially less advantageous to Borrower;

8.7 Judgments. One or more judgments, orders, or decrees for the payment of money in an amount, individually or in the aggregate, of at least Five Hundred Thousand Dollars ($500,000.00) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower or any of its Subsidiaries and shall remain unsatisfied, unvacated, or unstayed for a period of ten (10) days after the entry thereof (provided that no Credit Extensions will be made prior to the satisfaction, vacation, or stay of such judgment, order or decree);

8.8 Misrepresentations. Borrower or any of its Subsidiaries or any Person acting for Borrower or any of its Subsidiaries makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Collateral Agent and/or Lenders or to induce Collateral Agent and/or the Lenders to enter this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made;

8.9 Subordinated Debt. A default or breach occurs under any agreement between Borrower or any of its Subsidiaries and any creditor of Borrower or any of its Subsidiaries that signed a subordination, intercreditor, or other similar agreement with Collateral Agent or the Lenders, or any creditor that has signed such an agreement with Collateral Agent or the Lenders breaches any terms of such agreement;

8.10 Guaranty. (a) Any Guaranty terminates or ceases for any reason to be in full force and effect; (b) any Guarantor does not perform any obligation or covenant under any Guaranty; (c) any

circumstance described in Sections 8.3, 8.4, 8.5, 8.7, or 8.8 occurs with respect to any Guarantor, or (d) the liquidation, winding up, or termination of existence of any Guarantor;

8.11 Governmental Approvals. Any Governmental Approval shall have been revoked, rescinded, suspended, modified in an adverse manner, or not renewed in the ordinary course for a full term *and* such revocation, rescission, suspension, modification or non-renewal has resulted in or could reasonably be expected to result in a Material Adverse Change; or

8.12 Lien Priority. Any Lien created hereunder or by any other Loan Document shall at any time fail to constitute a valid and perfected Lien on any of the Collateral purported to be secured thereby, subject to no prior or equal Lien, other than Permitted Liens which are permitted to have priority in accordance with the terms of this Agreement.

8.13 Delisting. The equity securities of Borrower are delisted from any stock exchange after being listed thereon because of failure to comply with continued listing standards thereof or due to a voluntary delisting which results in such equity securities not being listed on any other nationally recognized stock exchange in the United States having listing standards at least as restrictive as the stock exchange from which they were delisted.

9. RIGHTS AND REMEDIES

9.1 Rights and Remedies.

(a) Upon the occurrence and during the continuance of an Event of Default, Collateral Agent may, and at the written direction of Required Lenders shall, without notice or demand, do any or all of the following: (i) deliver notice of the Event of Default to Borrower, (ii) by notice to Borrower declare all Obligations immediately due and payable (but if an Event of Default described in Section 8.5 occurs all Obligations shall be immediately due and payable without any action by Collateral Agent or the Lenders) or (iii) by notice to Borrower suspend or terminate the obligations, if any, of the Lenders to advance money or extend credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Collateral Agent and/or the Lenders (but if an Event of Default described in Section 8.5 occurs all obligations, if any, of the Lenders to advance money or extend credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Collateral Agent and/or the Lenders shall be immediately terminated without any action by Collateral Agent or the Lenders).

(b) Without limiting the rights of Collateral Agent and the Lenders set forth in Section 9.1(a) above, upon the occurrence and during the continuance of an Event of Default, Collateral Agent shall have the right, without notice or demand, to do any or all of the following:

(i) foreclose upon and/or sell or otherwise liquidate, the Collateral;

(ii) apply to the Obligations any (a) balances and deposits of Borrower that Collateral Agent or any Lender holds or controls, or (b) any amount held or controlled by Collateral Agent or any Lender owing to or for the credit or the account of Borrower; and/or

(iii) commence and prosecute an Insolvency Proceeding or consent to Borrower commencing any Insolvency Proceeding.

(c) Without limiting the rights of Collateral Agent and the Lenders set forth in Sections 9.1(a) and (b) above, upon the occurrence and during the continuance of an Event of Default, Collateral Agent shall have the right, without notice or demand, to do any or all of the following:

(i) settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Collateral Agent considers advisable, notify any Person owing Borrower money of Collateral Agent's security interest in such funds, and verify the amount of such account;

(ii) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall assemble the Collateral if Collateral Agent requests and make it available in a location as Collateral Agent reasonably designates. Collateral Agent may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Borrower grants Collateral Agent a license to enter and occupy any of its premises, without charge, to exercise any of Collateral Agent's rights or remedies;

(iii) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, and/or advertise for sale, the Collateral. Collateral Agent is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's and each of its Subsidiaries' labels, patents, copyrights, mask works, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Collateral Agent's exercise of its rights under this Section 9.1, Borrower's and each of its Subsidiaries' rights under all licenses and all franchise agreements inure to Collateral Agent, for the benefit of the Lenders;

(iv) place a "hold" on any account maintained with Collateral Agent or the Lenders and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;

(v) demand and receive possession of Borrower's Books;

(vi) appoint a receiver to seize, manage and realize any of the Collateral, and such receiver shall have any right and authority as any competent court will grant or authorize in accordance with any applicable law, including any power or authority to manage the business of Borrower or any of its Subsidiaries; and

(vii) subject to clauses 9.1(a) and (b), exercise all rights and remedies available to Collateral Agent and each Lender under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

Notwithstanding any provision of this Section 9.1 to the contrary, upon the occurrence of any Event of Default, Collateral Agent shall have the right to exercise any and all remedies referenced in this Section 9.1 without the written consent of Required Lenders following the occurrence of an Exigent Circumstance. As used in the immediately preceding sentence, "**Exigent Circumstance**" means any event or circumstance that, in the reasonable judgment of Collateral Agent, imminently threatens the ability of Collateral Agent to realize upon all or any material portion of the Collateral, such as, without limitation, fraudulent removal, concealment, or abscondment thereof, destruction or material waste thereof, or failure of Borrower or any of its Subsidiaries after reasonable demand to maintain or reinstate

adequate casualty insurance coverage, or which, in the judgment of Collateral Agent, could reasonably be expected to result in a material diminution in value of the Collateral.

9.2 Power of Attorney. Borrower hereby irrevocably appoints Collateral Agent as its lawful attorney-in-fact, exercisable upon the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower's or any of its Subsidiaries' name on any checks or other forms of payment or security; (b) sign Borrower's or any of its Subsidiaries' name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) settle and adjust disputes and claims about the Accounts directly with Account Debtors, for amounts and on terms Collateral Agent determines reasonable; (d) make, settle, and adjust all claims under Borrower's insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Collateral Agent or a third party as the Code or any applicable law permits. Borrower hereby appoints Collateral Agent as its lawful attorney-in-fact to sign Borrower's or any of its Subsidiaries' name on any documents necessary to perfect or continue the perfection of Collateral Agent's security interest in the Collateral regardless of whether an Event of Default has occurred until all Obligations (other than inchoate indemnity obligations) have been satisfied in full and Collateral Agent and the Lenders are under no further obligation to make Credit Extensions hereunder. Collateral Agent's foregoing appointment as Borrower's or any of its Subsidiaries' attorney in fact, and all of Collateral Agent's rights and powers, coupled with an interest, are irrevocable until all Obligations (other than inchoate indemnity obligations) have been fully repaid and performed and Collateral Agent's and the Lenders' obligation to provide Credit Extensions terminates.

9.3 Protective Payments. If Borrower or any of its Subsidiaries fail to obtain the insurance called for by Section 6.5 or fails to pay any premium thereon or fails to pay any other amount which Borrower or any of its Subsidiaries is obligated to pay under this Agreement or any other Loan Document, Collateral Agent may obtain such insurance or make such payment, and all amounts so paid by Collateral Agent are Lenders' Expenses and immediately due and payable, bearing interest at the Default Rate, and secured by the Collateral. Collateral Agent will make reasonable efforts to provide Borrower with notice of Collateral Agent obtaining such insurance or making such payment at the time it is obtained or paid or within a reasonable time thereafter. No such payments by Collateral Agent are deemed an agreement to make similar payments in the future or Collateral Agent's waiver of any Event of Default.

9.4 Application of Payments and Proceeds. Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, (a) Borrower irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by Collateral Agent from or on behalf of Borrower or any of its Subsidiaries of all or any part of the Obligations, and, as between Borrower on the one hand and Collateral Agent and Lenders on the other, Collateral Agent shall have the continuing and exclusive right to apply and to reapply any and all payments received against the Obligations in such manner as Collateral Agent may deem advisable notwithstanding any previous application by Collateral Agent, and (b) the proceeds of any sale of, or other realization upon all or any part of the Collateral shall be applied: first, to the Lenders' Expenses; second, to accrued and unpaid interest on the Obligations (including any interest which, but for the provisions of the United States Bankruptcy Code, would have accrued on such amounts); third, to the principal amount of the Obligations outstanding; and fourth, to any other indebtedness or obligations of Borrower owing to Collateral Agent or any Lender under the Loan Documents. Any balance remaining shall be delivered to Borrower or to whoever may be lawfully entitled to receive such balance or as a court of competent jurisdiction may direct. In carrying out the foregoing, (x) amounts received shall be applied in the numerical order provided until exhausted prior to the application to the next succeeding

category, and (y) each of the Persons entitled to receive a payment in any particular category shall receive an amount equal to its pro rata share of amounts available to be applied pursuant thereto for such category. Any reference in this Agreement to an allocation between or sharing by the Lenders of any right, interest or obligation "ratably," "proportionally" or in similar terms shall refer to Pro Rata Share unless expressly provided otherwise. Collateral Agent, or if applicable, each Lender, shall promptly remit to the other Lenders such sums as may be necessary to ensure the ratable repayment of each Lender's portion of any Term Loan and the ratable distribution of interest, fees and reimbursements paid or made by Borrower. Notwithstanding the foregoing, a Lender receiving a scheduled payment shall not be responsible for determining whether the other Lenders also received their scheduled payment on such date; provided, however, if it is later determined that a Lender received more than its ratable share of scheduled payments made on any date or dates, then such Lender shall remit to Collateral Agent or other Lenders such sums as may be necessary to ensure the ratable payment of such scheduled payments, as instructed by Collateral Agent. If any payment or distribution of any kind or character, whether in cash, properties or securities, shall be received by a Lender in excess of its ratable share, then the portion of such payment or distribution in excess of such Lender's ratable share shall be received by such Lender in trust for and shall be promptly paid over to the other Lender for application to the payments of amounts due on the other Lenders' claims. To the extent any payment for the account of Borrower is required to be returned as a voidable transfer or otherwise, the Lenders shall contribute to one another as is necessary to ensure that such return of payment is on a pro rata basis. If any Lender shall obtain possession of any Collateral, it shall hold such Collateral for itself and as agent and bailee for Collateral Agent and other Lenders for purposes of perfecting Collateral Agent's security interest therein.

9.5 Liability for Collateral. So long as Collateral Agent and the Lenders comply with reasonable banking practices regarding the safekeeping of the Collateral in the possession or under the control of Collateral Agent and the Lenders, Collateral Agent and the Lenders shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; (c) any diminution in the value of the Collateral; or (d) any act or default of any carrier, warehouseman, bailee, or other Person. Borrower bears all risk of loss, damage or destruction of the Collateral.

9.6 No Waiver; Remedies Cumulative. Failure by Collateral Agent or any Lender, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of Collateral Agent or any Lender thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by Collateral Agent and the Required Lenders and then is only effective for the specific instance and purpose for which it is given. The rights and remedies of Collateral Agent and the Lenders under this Agreement and the other Loan Documents are cumulative. Collateral Agent and the Lenders have all rights and remedies provided under the Code, any applicable law, by law, or in equity. The exercise by Collateral Agent or any Lender of one right or remedy is not an election, and Collateral Agent's or any Lender's waiver of any Event of Default is not a continuing waiver. Collateral Agent's or any Lender's delay in exercising any remedy is not a waiver, election, or acquiescence.

9.7 Demand Waiver. Borrower waives, to the fullest extent permitted by law, demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Collateral Agent or any Lender on which Borrower or any Subsidiary is liable.

10. NOTICES

All notices, consents, requests, approvals, demands, or other communication (collectively, "**Communication**") by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Any of Collateral Agent, Lender or Borrower may change its mailing address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Section 10.

If to Borrower:	PROCEPT BIOROBOTICS CORPORATION 900 Island Drive Suite 210 Redwood Shore, California 94065 Attn: Nikolai Aljuri, Chief Executive Officer Email:
with a copy (which shall not constitute notice) to:	Cooley LLP 55 Hudson Yards New York, NY 10001-2157 Attn: Patrick Flanagan Email:
If to Collateral Agent or Lenders:	OXFORD FINANCE LLC 133 North Fairfax Street Alexandria, Virginia 22314 Attention: Legal Department Fax: Email:
with a copy (which shall not constitute notice) to:	Greenberg Traurig, LLP One International Place Boston, MA 02110 Attn: Jonathan Bell Fax: Email:

11. CHOICE OF LAW, VENUE AND JURY TRIAL WAIVER, AND JUDICIAL REFERENCE

California law governs the Loan Documents without regard to principles of conflicts of law. Borrower, Collateral Agent and each Lender each submit to the exclusive jurisdiction of the State and Federal courts in Santa Clara County, California; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Collateral Agent or any Lender from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Collateral Agent or any Lender. Borrower expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court,

and Borrower hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Borrower hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to Borrower at the address set forth in, or subsequently provided by Borrower in accordance with, Section 10 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of Borrower's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER, COLLATERAL AGENT AND EACH LENDER EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR EACH PARTY TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.

WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO WAIVE THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY, if the above waiver of the right to a trial by jury is not enforceable, the parties hereto agree that any and all disputes or controversies of any nature between them arising at any time shall be decided by a reference to a private judge, mutually selected by the parties (or, if they cannot agree, by the Presiding Judge of the Santa Clara County, California Superior Court) appointed in accordance with California Code of Civil Procedure Section 638 (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts), sitting without a jury, in Santa Clara County, California; and the parties hereby submit to the jurisdiction of such court. The reference proceedings shall be conducted pursuant to and in accordance with the provisions of California Code of Civil Procedure §§ 638 through 645.1, inclusive. The private judge shall have the power, among others, to grant provisional relief, including without limitation, entering temporary restraining orders, issuing preliminary and permanent injunctions and appointing receivers. All such proceedings shall be closed to the public and confidential and all records relating thereto shall be permanently sealed. If during the course of any dispute, a party desires to seek provisional relief, but a judge has not been appointed at that point pursuant to the judicial reference procedures, then such party may apply to the Santa Clara County, California Superior Court for such relief. The proceeding before the private judge shall be conducted in the same manner as it would be before a court under the rules of evidence applicable to judicial proceedings. The parties shall be entitled to discovery which shall be conducted in the same manner as it would be before a court under the rules of discovery applicable to judicial proceedings. The private judge shall oversee discovery and may enforce all discovery rules and orders applicable to judicial proceedings in the same manner as a trial court judge. The parties agree that the selected or appointed private judge shall have the power to decide all issues in the action or proceeding, whether of fact or of law, and shall report a statement of decision thereon pursuant to California Code of Civil Procedure § 644(a). Nothing in this paragraph shall limit the right of any party at any time to exercise self-help remedies, foreclose against collateral, or obtain provisional remedies. The private judge shall also determine all issues relating to the applicability, interpretation, and enforceability of this paragraph.

12. GENERAL PROVISIONS

12.1 Successors and Assigns. This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not transfer, pledge or assign this Agreement or any rights or obligations under it without Collateral Agent's and each Lender's prior written consent (which

may be granted or withheld in Collateral Agent's and each Lender's discretion, subject to Section 12.6). The Lenders have the right, without the consent of or notice to Borrower, to sell, transfer, assign, pledge, negotiate, or grant participation in **(any** such sale, transfer, assignment, negotiation**,** or grant of a participation, a **"Lender Transfer")** all or any part of, or any interest in, the Lenders' obligations, rights, and benefits under this Agreement and the other Loan Documents; provided, however, that any such Lender Transfer (other than a transfer, pledge, sale or assignment to an Eligible Assignee) of its obligations, rights, and benefits under this Agreement and the other Loan Documents shall require the prior written consent of the Required Lenders (such approved assignee, an "**Approved Lender**"). Borrower and Collateral Agent shall be entitled to continue to deal solely and directly with such Lender in connection with the interests so assigned until Collateral Agent shall have received and accepted an effective assignment agreement in form satisfactory to Collateral Agent executed, delivered and fully completed by the applicable parties thereto, and shall have received such other information regarding such Eligible Assignee or Approved Lender as Collateral Agent reasonably shall require. Notwithstanding anything to the contrary contained herein, so long as no Event of Default has occurred and is continuing, no Lender Transfer (other than a Lender Transfer in connection with (x) assignments by a Lender due to a forced divestiture at the request of any regulatory agency; or (y) upon the occurrence of a default, event of default or similar occurrence with respect to a Lender's own financing or securitization transactions) shall be permitted, without Borrower's consent, to any Person which is an Affiliate or Subsidiary of Borrower, a direct competitor of Borrower or a vulture hedge fund, each as determined by Collateral Agent.

12.2 Indemnification. Borrower agrees to indemnify, defend and hold Collateral Agent and the Lenders and their respective directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing Collateral Agent or the Lenders (each, an "**Indemnified Person**") harmless against: (a) all obligations, demands, claims, and liabilities (collectively, "**Claims**") asserted by any other party in connection with; related to; following; or arising from, out of or under, the transactions contemplated by the Loan Documents; and (b) all losses or Lenders' Expenses incurred, or paid by Indemnified Person in connection with; related to; following; or arising from, out of or under, the transactions contemplated by the Loan Documents between Collateral Agent, and/or the Lenders and Borrower (including reasonable attorneys' fees and expenses), except for Claims and/or losses directly caused by such Indemnified Person's gross negligence or willful misconduct. Borrower hereby further indemnifies, defends and holds each Indemnified Person harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the fees and disbursements of counsel for such Indemnified Person) in connection with any investigative, response, remedial, administrative or judicial matter or proceeding, whether or not such Indemnified Person shall be designated a party thereto and including any such proceeding initiated by or on behalf of Borrower, and the reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel and any commission, fee or compensation claimed by any broker (other than any broker retained by Collateral Agent or Lenders) asserting any right to payment for the transactions contemplated hereby which may be imposed on, incurred by or asserted against such Indemnified Person as a result of or in connection with the transactions contemplated hereby and the use or intended use of the proceeds of the loan proceeds except for liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements directly caused by such Indemnified Person's gross negligence or willful misconduct.

12.3 Time of Essence. Time is of the essence for the performance of all Obligations in this Agreement.

12.4 Severability of Provisions. Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

12.5 Correction of Loan Documents. Collateral Agent and the Lenders may correct patent errors and fill in any blanks in this Agreement and the other Loan Documents consistent with the agreement of the parties; provided that Collateral Agent and the Lenders provide Borrower with written notice of such correction.

12.6 Amendments in Writing; Integration. (a) No amendment, modification, termination or waiver of any provision of this Agreement or any other Loan Document, no approval or consent thereunder, or any consent to any departure by Borrower or any of its Subsidiaries therefrom, shall in any event be effective unless the same shall be in writing and signed by Borrower, Collateral Agent and the Required Lenders provided that:

(i) no such amendment, waiver or other modification that would have the effect of increasing or reducing a Lender's Term Loan Commitment or Commitment Percentage shall be effective as to such Lender without such Lender's written consent;

(ii) no such amendment, waiver or modification that would affect the rights and duties of Collateral Agent shall be effective without Collateral Agent's written consent or signature;

(iii) no such amendment, waiver or other modification shall, unless signed by all the Lenders directly affected thereby, (A) reduce the principal of, rate of interest on or any fees with respect to any Term Loan or forgive any principal, interest (other than default interest) or fees (other than late charges) with respect to any Term Loan (B) postpone the date fixed for, or waive, any payment of principal of any Term Loan or of interest on any Term Loan (other than default interest) or any fees provided for hereunder (other than late charges or for any termination of any commitment); (C) change the definition of the term "**Required Lenders**" or the percentage of Lenders which shall be required for the Lenders to take any action hereunder; (D) release all or substantially all of any material portion of the Collateral, authorize Borrower to sell or otherwise dispose of all or substantially all or any material portion of the Collateral or release any Guarantor of all or any portion of the Obligations or its guaranty obligations with respect thereto, except, in each case with respect to this clause (D), as otherwise may be expressly permitted under this Agreement or the other Loan Documents (including in connection with any disposition permitted hereunder); (E) amend, waive or otherwise modify this Section 12.6 or the definitions of the terms used in this Section 12.6 insofar as the definitions affect the substance of this Section 12.6; (F) consent to the assignment, delegation or other transfer by Borrower of any of its rights and obligations under any Loan Document or release Borrower of its payment obligations under any Loan Document, except, in each case with respect to this clause (F), pursuant to a merger or consolidation permitted pursuant to this Agreement; (G) amend any of the provisions of Section 9.4 or amend any of the definitions of Pro Rata Share, Term Loan Commitment, Commitment Percentage or that provide for the Lenders to receive their Pro Rata Shares of any fees, payments, setoffs or proceeds of Collateral hereunder; (H) subordinate the Liens granted in favor of Collateral Agent securing the Obligations; or (I) amend any of the provisions of Section 12.10. It is hereby understood and agreed that all Lenders shall be deemed directly affected by an amendment, waiver or other modification of the type described in the preceding clauses (C), (D), (E), (F), (G) and (H) of the preceding sentence;

(iv) the provisions of the foregoing clauses (i), (ii) and (iii) are subject to the provisions of any interlender or agency agreement among the Lenders and Collateral Agent pursuant to which any Lender may agree to give its consent in connection with any amendment, waiver or modification of the Loan Documents only in the event of the unanimous agreement of all Lenders.

(b) Other than as expressly provided for in Section 12.6(a)(i)-(iii), Collateral Agent may, if requested by the Required Lenders, from time to time designate covenants in this Agreement less restrictive by notification to a representative of Borrower.

(c) This Agreement and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Agreement and the Loan Documents merge into this Agreement and the Loan Documents.

12.7 Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

12.8 Survival. All covenants, representations and warranties made in this Agreement continue in full force and effect until this Agreement has terminated pursuant to its terms and all Obligations (other than inchoate indemnity obligations and any other obligations which, by their terms, are to survive the termination of this Agreement) have been satisfied. The obligation of Borrower in Section 12.2 to indemnify each Lender and Collateral Agent, as well as the confidentiality provisions in Section 12.9 below, shall survive until the statute of limitations with respect to such claim or cause of action shall have run. Notwithstanding anything herein to the contrary, Borrower's obligations under the Success Fee Letter shall survive the termination of this Agreement in accordance with the terms of the Success Fee Letter.

12.9 Confidentiality. In handling any confidential information of Borrower, the Lenders and Collateral Agent shall exercise the same degree of care that it exercises for their own proprietary information, but disclosure of information may be made: (a) subject to the terms and conditions of this Agreement, to the Lenders' and Collateral Agent's Subsidiaries or Affiliates, or in connection with a Lender's own financing or securitization transactions and upon the occurrence of a default, event of default or similar occurrence with respect to such financing or securitization transaction; (b) to prospective transferees (other than those identified in (a) above) or purchasers of any interest in the Credit Extensions (provided, however, the Lenders and Collateral Agent shall, except upon the occurrence and during the continuance of an Event of Default, obtain such prospective transferee's or purchaser's agreement to the terms of this provision or to similar confidentiality terms); (c) as required by law, regulation, subpoena, or other order; (d) to Lenders' or Collateral Agent's regulators or as otherwise required in connection with an examination or audit; (e) as Collateral Agent reasonably considers appropriate in exercising remedies under the Loan Documents; and (f) to third party service providers of the Lenders and/or Collateral Agent so long as such service providers have executed a confidentiality agreement with the Lenders and Collateral Agent with terms no less restrictive than those contained herein. Confidential information does not include information that either: (i) is in the public domain or in the Lenders' and/or Collateral Agent's possession when disclosed to the Lenders and/or Collateral Agent, or becomes part of the public domain after disclosure to the Lenders and/or Collateral Agent; or (ii) is disclosed to the Lenders and/or Collateral Agent by a third party, if the Lenders and/or Collateral Agent does not know that the third party is prohibited from disclosing the information. Collateral Agent and the Lenders may use confidential information for any purpose, including, without limitation, for the development of client databases, reporting purposes, and market analysis. The provisions of the immediately preceding sentence shall survive the termination of this Agreement. The agreements provided under this Section 12.9 supersede all prior agreements, understanding, representations, warranties, and negotiations between the parties about the subject matter of this Section 12.9.

12.10 Right of Set Off. Borrower hereby grants to Collateral Agent and to each Lender, a lien, security interest and right of set off as security for all Obligations to Collateral Agent and each Lender hereunder, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Collateral Agent or the Lenders or any entity under the control of Collateral Agent or the Lenders (including a Collateral Agent affiliate) or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, Collateral Agent or the Lenders may set off the same or any part thereof and apply the same to any liability or obligation of Borrower even though unmatured and regardless of the adequacy of any other collateral securing the Obligations. ANY AND ALL RIGHTS TO REQUIRE COLLATERAL AGENT TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF BORROWER ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

12.11 Cooperation of Borrower. If necessary, Borrower agrees to (i) execute any documents (including new Secured Promissory Notes) reasonably required to effectuate and acknowledge each assignment of a Term Loan Commitment or Term Loan to an assignee in accordance with Section 12.1, (ii) make Borrower's management available to meet with Collateral Agent and prospective participants and assignees of Term Loan Commitments or Credit Extensions (which meetings shall be conducted no more often than twice every twelve months unless an Event of Default has occurred and is continuing), and (iii) assist Collateral Agent or the Lenders in the preparation of information relating to the financial affairs of Borrower as any prospective participant or assignee of a Term Loan Commitment or Term Loan reasonably may request; provided that, unless an Event of Default has occurred or is continuing, such prospective assignee is not a direct competitor of Borrower as reasonably determined by Collateral Agent (other than a prospective assignee for a Lender Transfer in connection with (x) assignments by a Lender due to a forced divestiture at the request of any regulatory agency; or (y) upon the occurrence of a default, event of default or similar occurrence with respect to a Lender's own financing or securitization transactions). Subject to the provisions of Section 12.9, Borrower authorizes each Lender to disclose to any prospective participant or assignee of a Term Loan Commitment, any and all information in such Lender's possession concerning Borrower and its financial affairs which has been delivered to such Lender by or on behalf of Borrower pursuant to this Agreement, or which has been delivered to such Lender by or on behalf of Borrower in connection with such Lender's credit evaluation of Borrower prior to entering into this Agreement; provided that, unless an Event of Default has occurred or is continuing, such prospective assignee is not a direct competitor of Borrower as reasonably determined by Collateral Agent (other than a prospective assignee for a Lender Transfer in connection with (x) assignments by a Lender due to a forced divestiture at the request of any regulatory agency; or (y) upon the occurrence of a default, event of default or similar occurrence with respect to a Lender's own financing or securitization transactions).

13. DEFINITIONS

13.1 Definitions. As used in this Agreement, the following terms have the following meanings:

"**Account**" is any "account" as defined in the Code with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to Borrower.

"**Account Debtor**" is any "account debtor" as defined in the Code with such additions to such term as may hereafter be made.

"**Affiliate**" of any Person is a Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person's senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person's managers and members.

"**Agreement**" is defined in the preamble hereof.

"**Amortization Date**" is, (i) October 1, 2021, if the Third Draw Period does not commence, (ii) October 1, 2022, if the Third Draw Period commences but the IPO Event does not occur and (iii) October 1, 2023, if the Third Draw Period commences and the IPO Event occurs.

"**Annual Projections**" is defined in Section 6.2(a).

"**Anti-Terrorism Laws**" are any laws relating to terrorism or money laundering, including Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by OFAC.

"**Approved Forecast**" is Borrower's annual financial projections for the entire period from the earliest of (i) the first day of the second calendar quarter of 2021, (ii) the first day of the month immediately after the Funding Date of the Term C Loan or (iii) the first day of the month immediately after the Funding Date of the Term D Loan, and through the Maturity Date, which such annual financial projections shall be set forth in a month-by-month format, which must be consistent with Borrower's revenue growing fiscal year over fiscal year (over both projected and actual revenues) and be acceptable to Collateral Agent in its sole discretion.

"**Approved Fund**" is any (i) investment company, fund, trust, securitization vehicle or conduit that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business or (ii) any Person (other than a natural person) which temporarily warehouses loans for any Lender or any entity described in the preceding clause (i) and that, with respect to each of the preceding clauses (i) and (ii), is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) a Person (other than a natural person) or an Affiliate of a Person (other than a natural person) that administers or manages a Lender.

"**Approved Lender**" is defined in Section 12.1.

"**AquaBeam License Agreement**" is that certain Amended and Restated Exclusive License Agreement between Borrower and AquaBeam LLC, a California limited liability company, effective as of September 13, 2019, and without any other amendments or changes thereto (other than amendments or other changes that are neither adverse to the interests of Collateral Agent (including, without limitation, to Collateral Agent's security interest in the Collateral), Lenders or Borrower nor constitute in the aggregate such transactions that would require Collateral Agent's or the Required Lenders' consent under Section 7 of the Loan Agreement). Borrower shall provide a five (5) Business Days' prior notice to Collateral Agent (along with the then current draft of) each amendment to the AquaBeam License Agreement and no amendments shall be made to the AquaBean License Agreement when an Event of Default has occurred and is continuing.

"**Basic Rate**" is with respect to any Term Loan, the per annum rate of interest (based on a year of three hundred sixty (360) days) equal to the greater of (a) Nine and Thirty Seven Hundredths percent (9.37%) and (b) the sum of (i) thirty (30) day U.S. LIBOR rate reported in The Wall Street Journal on the

last Business Day of the month that immediately precedes the month in which the interest will accrue, plus (ii) Seven and Seventeen Hundredths percent (7.17%). If The Wall Street Journal (or another nationally recognized rate reporting source acceptable to Collateral Agent) no longer reports the U.S. LIBOR Rate or if such interest rate no longer exists or if The Wall Street Journal no longer publishes the U.S. LIBOR Rate or ceases to exist, Collateral Agent may in good faith select a replacement interest rate or replacement publication, as the case may be. Notwithstanding the foregoing, the Basic Rate for the Term Loan for the period from the Effective Date through and including September 30, 2019 shall be Nine and Thirty Seven Hundredths percent (9.37%).

"**Blocked Person**" is any Person: (a) listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (c) a Person with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order No. 13224, or (e) a Person that is named a "specially designated national" or "blocked person" on the most current list published by OFAC or other similar list.

"**Borrower**" is defined in the preamble hereof.

"**Borrower's Books**" are Borrower's or any of its Subsidiaries' books and records including ledgers, federal, and state tax returns, records regarding Borrower's or its Subsidiaries' assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

"**Business Day**" is any day that is not a Saturday, Sunday or a day on which Collateral Agent is closed.

"**Cash Equivalents**" are (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc., and (c) certificates of deposit maturing no more than one (1) year after issue provided that the account in which any such certificate of deposit is maintained is subject to a Control Agreement in favor of Collateral Agent. For the avoidance of doubt, the direct purchase by Borrower or any of its Subsidiaries of any Auction Rate Securities, or purchasing participations in, or entering into any type of swap or other derivative transaction, or otherwise holding or engaging in any ownership interest in any type of Auction Rate Security by Borrower or any of its Subsidiaries shall be conclusively determined by the Lenders as an ineligible Cash Equivalent, and any such transaction shall expressly violate each other provision of this Agreement governing Permitted Investments. Notwithstanding the foregoing, Cash Equivalents does not include and Borrower, and each of its Subsidiaries, are prohibited from purchasing, purchasing participations in, entering into any type of swap or other equivalent derivative transaction, or otherwise holding or engaging in any ownership interest in any type of debt instrument, including, without limitation, any corporate or municipal bonds with a long-term nominal maturity for which the interest rate is reset through a dutch auction and more commonly referred to as an auction rate security (each, an "**Auction Rate Security**").

"**Claims**" are defined in Section 12.2.

"**Code**" is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of California; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of

the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Collateral Agent's Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of California, the term "Code" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

"**Collateral**" is any and all properties, rights and assets of Borrower described on Exhibit A.

"**Collateral Account**" is any Deposit Account, Securities Account, or Commodity Account, or any other bank account maintained by Borrower or any Subsidiary at any time.

"**Collateral Agent**" is, Oxford, not in its individual capacity, but solely in its capacity as agent on behalf of and for the benefit of the Lenders.

"**Commitment Percentage**" is set forth in Schedule 1.1, as amended from time to time.

"**Commodity Account**" is any "commodity account" as defined in the Code with such additions to such term as may hereafter be made.

"**Communication**" is defined in Section 10.

"**Compliance Certificate**" is that certain certificate in the form attached hereto as Exhibit C.

"**Contingent Obligation**" is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but "Contingent Obligation" does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

"**Control Agreement**" is any control agreement entered into among the depository institution at which Borrower or any of its Subsidiaries maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower or any of its Subsidiaries maintains a Securities Account or a Commodity Account, Borrower and such Subsidiary, and Collateral Agent pursuant to which Collateral Agent obtains control (within the meaning of the Code) for the benefit of the Lenders over such Deposit Account, Securities Account, or Commodity Account.

"**Copyrights**" are any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret.

"**Credit Extension**" is any Term Loan or any other extension of credit by Collateral Agent or Lenders for Borrower's benefit.

"**Default Rate**" is defined in Section 2.3(b).

"**Deposit Account**" is any "deposit account" as defined in the Code with such additions to such term as may hereafter be made.

"**Designated Deposit Account**" is Borrower's deposit account, account number ******2423, maintained with Silicon Valley Bank.

"**Disbursement Letter**" is that certain form attached hereto as Exhibit B.

"**Dollars,**" "**dollars**" and "$" each mean lawful money of the United States.

"**Effective Date**" is defined in the preamble of this Agreement.

"**Eligible Assignee**" is (i) a Lender, (ii) an Affiliate of a Lender, (iii) an Approved Fund and (iv) any commercial bank, savings and loan association or savings bank or any other entity which is an "accredited investor" (as defined in Regulation D under the Securities Act of 1933, as amended) and which extends credit or buys loans as one of its businesses, including insurance companies, mutual funds, lease financing companies and commercial finance companies, in each case, which either (A) has a rating of BBB or higher from Standard & Poor's Rating Group and a rating of Baa2 or higher from Moody's Investors Service, Inc. at the date that it becomes a Lender or (B) has total assets in excess of Five Billion Dollars ($5,000,000,000.00), and in each case of clauses (i) through (iv), which, through its applicable lending office, is capable of lending to Borrower without the imposition of any withholding or similar taxes; provided that notwithstanding the foregoing, "Eligible Assignee" shall not include, unless an Event of Default has occurred and is continuing, (i) Borrower or any of Borrower's Affiliates or Subsidiaries or (ii) a direct competitor of Borrower or a vulture hedge fund, each as determined by Collateral Agent. Notwithstanding the foregoing, (x) in connection with assignments by a Lender due to a forced divestiture at the request of any regulatory agency, the restrictions set forth herein shall not apply and Eligible Assignee shall mean any Person or party and (y) in connection with a Lender's own financing or securitization transactions, the restrictions set forth herein shall not apply and Eligible Assignee shall mean any Person or party providing such financing or formed to undertake such securitization transaction and any transferee of such Person or party upon the occurrence of a default, event of default or similar occurrence with respect to such financing or securitization transaction; provided that no such sale, transfer, pledge or assignment under this clause (y) shall release such Lender from any of its obligations hereunder or substitute any such Person or party for such Lender as a party hereto until Collateral Agent shall have received and accepted an effective assignment agreement from such Person or party in form satisfactory to Collateral Agent executed, delivered and fully completed by the applicable parties thereto, and shall have received such other information regarding such Eligible Assignee as Collateral Agent reasonably shall require.

"**Equipment**" is all "equipment" as defined in the Code with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

"**ERISA**" is the Employee Retirement Income Security Act of 1974, as amended, and its regulations.

"**Event of Default**" is defined in Section 8.

"**Excluded Accounts**" means any Deposit Accounts exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of Borrower's, or any of its Subsidiaries', employees and identified to Collateral Agent by Borrower as such in the Perfection Certificates.

"**Final Payment**" is a payment (in addition to and not a substitution for the regular monthly payments of principal plus accrued interest) due on the earliest to occur of (a) the Maturity Date, or (b) the acceleration of any Term Loan, or (c) the prepayment of a Term Loan pursuant to Section 2.2(c) or (d), equal to the original principal amount of such Term Loan funded multiplied by the Final Payment Percentage, payable to Lenders in accordance with their respective Pro Rata Shares.

"**Final Payment Percentage**" is six percent (6.00%).

"**First Revenue Event**" is the achievement by Borrower for the first time after the Effective Date and before March 31, 2021 of consolidated trailing six month revenues of at least Twenty Million Dollars ($20,000,000), determined by Collateral Agent at the end of any fiscal month of Borrower based upon written evidence satisfactory to Collateral Agent.

"**Foreign Subsidiary**" is a Subsidiary that is not an entity organized under the laws of the United States or any territory thereof.

"**Fourth Draw Period**" is the period commencing on the date of the occurrence of the Second Revenue Event and ending on the earliest of (i) June 30, 2021, (ii) the date that is sixty (60) days immediately after the occurrence of the Second Revenue Event and (iii) the occurrence of an Event of Default; provided, however, that the Fourth Draw Period shall not commence if on the date of the occurrence of the Second Revenue Event an Event of Default has occurred and is continuing.

"**Funding Date**" is any date on which a Credit Extension is made to or on account of Borrower which shall be a Business Day.

"**GAAP**" is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession in the United States, which are applicable to the circumstances as of the date of determination.

"**General Intangibles**" are all "general intangibles" as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation, all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work, whether published or unpublished, any patents, trademarks, service marks and, to the extent permitted under applicable law, any applications therefor, whether registered or not, any trade secret rights, including any rights to unpatented inventions, payment intangibles, royalties, contract rights, goodwill, franchise agreements, purchase orders, customer lists, route lists, telephone numbers, domain names, claims, income and other tax refunds, security and other deposits, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

"**Governmental Approval**" is any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

"**Governmental Authority**" is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

"**Guarantor**" is any Person providing a Guaranty in favor of Collateral Agent.

"**Guaranty**" is any guarantee of all or any part of the Obligations, as the same may from time to time be amended, restated, modified or otherwise supplemented.

"**HydroCision License Agreement**" is that certain Confidential Exclusive Patent License and Covenant Not to Sue between Borrower and HydroCision, Inc., a Delaware corporation, dated as of March 14, 2019, and without any other amendments or changes thereto (other than amendments or other changes that are neither adverse to the interests of Collateral Agent (including, without limitation, to Collateral Agent's security interest in the Collateral), Lenders or Borrower nor constitute in the aggregate such transactions that would require Collateral Agent's or the Required Lenders' consent under Section 7 of the Loan Agreement). Borrower shall provide a five (5) Business Days' prior notice to Collateral Agent (along with the then current draft of) each amendment to the HydroCision License Agreement and no amendments shall be made to the HydroCision License Agreement when an Event of Default has occurred and is continuing.

"**Indebtedness**" is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, and (d) Contingent Obligations.

"**Indemnified Person**" is defined in Section 12.2.

"**Insolvency Proceeding**" is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

"**Insolvent**" means not Solvent.

"**Intellectual Property**" means all of Borrower's or any Subsidiary's right, title and interest in and to the following:

(a) its Copyrights, Trademarks and Patents;

(b) any and all trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how, operating manuals;

(c) any and all source code;

(d) any and all design rights which may be available to Borrower;

(e) any and all claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above; and

(f) all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents.

"**Inventory**" is all "inventory" as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products,

including without limitation such inventory as is temporarily out of any Person's custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

"**Investment**" is any beneficial ownership interest in any Person (including stock, partnership interest or other securities), and any loan, advance, payment or capital contribution to any Person.

"**IPO Event**" is the receipt of by Borrower of unrestricted net cash proceeds of Fifty Million Dollars ($50,000,000), before May 1, 2022, as part of the initial public offering of Borrower's common stock.

"**IP Agreement**" is that certain Intellectual Property Security Agreement entered into by and between Borrower and Collateral Agent dated as of the Effective Date, as such may be amended from time to time.

"**Key Person**" is each of Borrower's (i) Chief Executive Officer, who is Nikolai Aljuri as of the Effective Date, (ii) Chief Financial Officer, who is Kevin Waters as of the Effective Date and (iii) Senior Vice President of Development and Research, who is Surag Mantri as of the Effective Date.

"**Lender**" is any one of the Lenders.

"**Lenders**" are the Persons identified on Schedule 1.1 hereto and each assignee that becomes a party to this Agreement pursuant to Section 12.1.

"**Lenders' Expenses**" are all audit fees and expenses, costs, and expenses (including reasonable attorneys' fees and expenses, as well as appraisal fees, fees incurred on account of lien searches, inspection fees, and filing fees) for preparing, amending, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred by Collateral Agent and/or the Lenders in connection with the Loan Documents.

"**Lien**" is a claim, mortgage, deed of trust, levy, charge, pledge, security interest, or other encumbrance of any kind, whether voluntarily incurred or arising by operation of law or otherwise against any property.

"**Loan Documents**" are, collectively, this Agreement, the Perfection Certificates, each Compliance Certificate, each Disbursement Letter, the Success Fee Letter, the Post Closing Letter, the IP Agreement, any subordination agreements, any note, or notes or guaranties executed by Borrower or any other Person, and any other present or future agreement entered into by Borrower, any Guarantor or any other Person for the benefit of the Lenders and Collateral Agent in connection with this Agreement; all as amended, restated, or otherwise modified.

"**Loan Party**" is any Borrower or Guarantor.

"**Material Adverse Change**" is (a) a material impairment in the perfection or priority of Collateral Agent's Lien in the Collateral or in the value of such Collateral; (b) a material adverse change in the business, operations or condition (financial or otherwise) of Borrower or any Subsidiary; or (c) a material impairment of the prospect of repayment of any portion of the Obligations.

"**Maturity Date**" is, for each Term Loan, September 1, 2024.

"**Obligations**" are all of Borrower's obligations to pay when due any debts, principal, interest, Lenders' Expenses, the Prepayment Fee, the Final Payment, and other amounts Borrower owes the Lenders now or later, in connection with, related to, following, or arising from, out of or under, this

Agreement or, the other Loan Documents (other than the Success Fee Letter), or otherwise, and including interest accruing after Insolvency Proceedings begin (whether or not allowed) and debts, liabilities, or obligations of Borrower assigned to the Lenders and/or Collateral Agent, and the performance of Borrower's duties under the Loan Documents.

"**OFAC**" is the U.S. Department of Treasury Office of Foreign Assets Control.

"**OFAC Lists**" are, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Executive Orders.

"**Operating Documents**" are, for any Person, such Person's formation documents, as certified by the Secretary of State (or equivalent agency) of such Person's jurisdiction of organization on a date that is no earlier than thirty (30) days prior to the Effective Date, and, (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

"**Patents**" means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same.

"**Payment Date**" is the first (1st) calendar day of each calendar month, commencing on November 1, 2019.

"**Perfection Certificate**" and "**Perfection Certificates**" is defined in Section 5.1.

"**Permitted Indebtedness**" is:

(a) Borrower's Indebtedness to the Lenders and Collateral Agent under this Agreement and the other Loan Documents;

(b) Indebtedness existing on the Effective Date and disclosed on the Perfection Certificate(s);

(c) Subordinated Debt;

(d) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;

(e) Indebtedness consisting of capitalized lease obligations and purchase money Indebtedness, in each case incurred by Borrower or any of its Subsidiaries to finance the acquisition, repair, improvement or construction of fixed or capital assets of such person, provided that (i) the aggregate outstanding principal amount of all such Indebtedness does not exceed Five Hundred Thousand Dollars ($500,000.00) at any time and (ii) the principal amount of such Indebtedness does not exceed the lower of the cost or fair market value of the property so acquired or built or of such repairs or improvements financed with such Indebtedness (each measured at the time of such acquisition, repair, improvement or construction is made);

(f) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of Borrower's business;

(g) any obligations with respect to corporate credit cards or merchant services for the account of Borrower or any Subsidiary in an aggregate amount outstanding at any time not to exceed Five Hundred Thousand Dollars ($500,000.00);

(h) all obligations arising under any interest rate, currency or commodity swap agreement, interest rate cap agreement, interest rate collar agreement, or other agreement or arrangement designated to protect Borrower or a Subsidiary against fluctuation in interest rates, currency exchange rates or commodity prices; provided the aggregate amount of Indebtedness under this clause (h) may not exceed Five Hundred Thousand Dollars ($500,000.00) at any given time;

(i) Indebtedness in respect of letters of credit, bank guarantees and similar instruments issued for the account of the Borrower or any Subsidiary in the ordinary course of business supporting obligations under (A) workers' compensation, unemployment insurance and other social security laws and (B) bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and obligations of a like nature; provided the aggregate amount of Indebtedness under this clause (i) may not exceed Eight Hundred Thousand Dollars ($800,000.00) at any given time;

(j) Other unsecured Indebtedness not to exceed Five Hundred Thousand Dollars ($500,000.00) in the aggregate at any time; and

(k) extensions, refinancings, modifications, amendments and restatements of any items of Permitted Indebtedness (a) through (j) above, provided that the principal amount thereof is not increased or the terms thereof are not modified to impose materially more burdensome terms upon Borrower, or its Subsidiary, as the case may be.

"**Permitted Investments**" are:

(a) Investments disclosed on the Perfection Certificate(s) and existing on the Effective Date;

(b) (i) Investments consisting of cash and Cash Equivalents, and (ii) any other Investments permitted by Borrower's investment policy, as amended from time to time, provided that such investment policy (and any such amendment thereto) has been approved in writing by Collateral Agent (and Collateral Agent acknowledges the investment policy delivered on or prior to the Effective Date is hereby approved);

(c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower referred to in clause (b) above;

(d) Investments consisting of deposit, securities and/or commodities accounts in which Collateral Agent has a perfected security interest (and which, in case of the securities and commodities accounts are maintained in accordance with Borrower's Investment Policy);

(e) Investments in connection with Transfers permitted by Section 7.1;

(f) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries; not to exceed Five Hundred Thousand Dollars ($500,000.00) in the aggregate for (i) and (ii) in any fiscal year;

(g) Investments (i) by Borrower or any Subsidiary in Subsidiaries that are not Loan Parties not to exceed Five Hundred Thousand Dollars ($500,000.00) per year so long as the aggregate

assets of any Subsidiary does not exceed Five Hundred Thousand Dollars ($500,000.00) and (ii) by a Loan Party in any other Loan Party;

(h) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business;

(i) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business; provided that this paragraph (i) shall not apply to Investments of Borrower in any Subsidiary;

(j) non-cash Investments in joint ventures or strategic alliances in the ordinary course of Borrower's business consisting of the licensing of technology, which licensing is non-exclusive or, if exclusive constitutes a Permitted License, the development of technology or the providing of technical support;

(k) Investments constituting interest rate, currency or commodity swap agreement, interest rate cap agreement, interest rate collar agreement, or other agreement or arrangement designated to protect Borrower or a Subsidiary against fluctuation in interest rates, currency exchange rates or commodity prices; provided, that the aggregate amount of Investments allowed under this clause (k) shall not exceed Five Hundred Thousand Dollars ($500,000.00) in any given fiscal year;

(l) cash Investments in joint ventures or strategic alliances by Borrower, provided that any cash investments by Borrower do not exceed Five Hundred Thousand Dollars ($500,000.00) in the aggregate in any fiscal year; and

(m) other Investments not otherwise permitted herein provided that the aggregate amount of all such Investments in any year shall not exceed Five Hundred Thousand Dollars ($500,000.00).

"**Permitted Licenses**" are (A) licenses of over-the-counter software that is commercially available to the public; (B) non-exclusive and exclusive licenses for the use of the Intellectual Property of Borrower or any of its Subsidiaries entered into in the ordinary course of business, provided, that, with respect to each such license described in clause (B), (i) no Event of Default has occurred or is continuing at the time of such license; (ii) the license constitutes an arms-length transaction, the terms of which, on their face, do not provide for a sale or assignment of any Intellectual Property and do not restrict the ability of Borrower or any of its Subsidiaries, as applicable, to pledge, grant a security interest in or lien on, or assign or otherwise Transfer any Intellectual Property; (iii) in the case of any exclusive license, (x) Borrower delivers ten (10) days' prior written notice and a brief summary of the terms of the proposed license to Collateral Agent and the Lenders and delivers to Collateral Agent and the Lenders copies of the final executed licensing documents in connection with the exclusive license promptly upon consummation thereof, and (y) any such license could not result in a legal transfer of title of the licensed property but may be exclusive in respects other than territory and may be exclusive as to territory only as to discrete geographical areas outside of the United States; and (iv) all upfront payments, royalties, milestone payments or other proceeds arising from the licensing agreement that are payable to Borrower or any of its Subsidiaries are paid to a Deposit Account that is governed by a Control Agreement; (C) the licenses granted by Borrower under the AquaBeam License Agreement; and (D) licenses granted by Borrower under the HydroCision License Agreement.

"**Permitted Liens**" are:

(a) Liens existing on the Effective Date and disclosed on the Perfection Certificates or arising under this Agreement and the other Loan Documents;

(b) Liens for taxes, fees, assessments or other government charges or levies, either (i) not due and payable or (ii) being contested in good faith and for which Borrower maintains adequate reserves on its books, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted thereunder;

(c) Liens securing Indebtedness permitted under clause (e) of the definition of "**Permitted Indebtedness**," provided that (i) such liens exist prior to the acquisition of, or attach substantially simultaneous with, or within ninety (90) days after the, acquisition, lease, repair, improvement or construction of, such property financed or leased by such Indebtedness and (ii) such liens do not extend to any property of Borrower other than the property (and proceeds thereof) acquired, leased or built, or the improvements or repairs, financed by such Indebtedness;

(d) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to Inventory, securing liabilities in the aggregate amount not to exceed Five Hundred Thousand Dollars ($500,000.00), and which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

(e) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA);

(f) leases or subleases of real property granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), if the leases, subleases, licenses and sublicenses do not prohibit granting Collateral Agent or any Lender a security interest therein;

(g) banker's liens, rights of setoff and Liens in favor of financial institutions incurred in the ordinary course of business arising in connection with Borrower's deposit accounts or securities accounts held at such institutions solely to secure payment of fees and similar costs and expenses and provided such accounts are maintained in compliance with Section 6.6(b) hereof;

(h) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default under Section 8.4 or 8.7;

(i) Liens consisting of Permitted Licenses;

(j) Liens incurred or deposits made in the ordinary course of Borrower's or a Subsidiary's business, securing liabilities to secure the performance of tenders, statutory obligations, surety, bid and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations; provided, however, the aggregate amount of such deposits and the Indebtedness secured by such Liens at any given time may not exceed Five Hundred Thousand Dollars ($500,000.00);

(k) easements, reservations, rights-of-way, restrictions, minor defects or irregularities in title and other similar Liens affecting real property not interfering in any material respect with the ordinary course of the business of Borrower;

(l) deposits to secure the performance of bids, trade contracts (other than for borrowed money), contracts for the purchase of property permitted hereunder, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case, incurred in the ordinary course of business not representing an obligation for borrowed money; provided, however, the aggregate amount of such deposits may not exceed Eight Hundred Thousand Dollars ($800,000.00) at any given time;

(m) Liens or deposits to secure the performance of leases incurred in the ordinary course of business and not representing an obligation for borrowed money and Liens to secure tenant improvements, provided the lessor thereof has executed a landlord consent in favor of, and in form and content reasonably acceptable to, Collateral Agent; provided, however, the sum of the aggregate amount of the Indebtedness secured by such Liens and the aggregate amount of such deposits at any given time may not exceed Seven Hundred Fifty Thousand Dollars ($750,000.00);

(n) Liens in favor of customs and revenue authorities arising as a matter of law, in the ordinary course of Borrower's business, to secure payment of customs duties in connection with the importation of goods; provided, however, the aggregate amount of Indebtedness secured by such Liens may not exceed Five Hundred Thousand Dollars ($500,000.00) at any given time; and

(o) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (a) through (n), but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien.

"**Person**" is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

"**Post Closing Letter**" is that certain Post Closing Letter dated as of the Effective Date by and between Collateral Agent and Borrower.

"**Prepayment Fee**" is, with respect to any Term Loan subject to prepayment prior to the Maturity Date, whether by mandatory or voluntary prepayment, acceleration or otherwise, an additional fee payable to the Lenders in amount equal to:

(i) for a prepayment made on or after the Funding Date of such Term Loan through and including the first anniversary of the Funding Date of such Term Loan, three percent (3.00%) of the principal amount of such Term Loan prepaid;

(ii) for a prepayment made after the date which is after the first anniversary of the Funding Date of such Term Loan through and including the second anniversary of the Funding Date of such Term Loan, two percent (2.00%) of the principal amount of the Term Loans prepaid; and

(iii) for a prepayment made after the date which is after the second anniversary of the Funding Date of such Term Loan prior to the Maturity Date, one percent (1.00%) of the principal amount of the Term Loans prepaid.

"**Pro Rata Share**" is, as of any date of determination, with respect to each Lender, a percentage (expressed as a decimal, rounded to the ninth decimal place) determined by dividing the outstanding

principal amount of Term Loans held by such Lender by the aggregate outstanding principal amount of all Term Loans.

"**Registered Organization**" is any "registered organization" as defined in the Code with such additions to such term as may hereafter be made.

"**Required Lenders**" means (i) for so long as all of the Persons that are Lenders on the Effective Date (each an "**Original Lender**") have not assigned or transferred any of their interests in their Term Loan, Lenders holding one hundred percent (100%) of the aggregate outstanding principal balance of the Term Loan, or (ii) at any time from and after any Original Lender has assigned or transferred any interest in its Term Loan, Lenders holding at least sixty six percent (66%) of the aggregate outstanding principal balance of the Term Loan and, in respect of this clause (ii), (A) each Original Lender that has not assigned or transferred any portion of its Term Loan, (B) each assignee or transferee of an Original Lender's interest in the Term Loan, but only to the extent that such assignee or transferee is an Affiliate or Approved Fund of such Original Lender, and (C) any Person providing financing to any Person described in clauses (A) and (B) above; provided, however, that this clause (C) shall only apply upon the occurrence of a default, event of default or similar occurrence with respect to such financing.

"**Requirement of Law**" is as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Responsible Officer**" is any of the President, Chief Executive Officer, or Chief Financial Officer of Borrower acting alone.

"**Second Draw Period**" is the period commencing on (i) January 1, 2020 and ending on the earlier of (i) March 31, 2020 and (ii) the occurrence of an Event of Default; provided, however, that the Second Draw Period shall not commence if on January 1, 2020 an Event of Default has occurred and is continuing.

"**Second Revenue Event**" is the achievement by Borrower for the first time after the Effective Date and before June 30, 2021 of consolidated trailing six month revenues of at least Twenty Five Million Dollars ($25,000,000), determined by Collateral Agent at the end of any fiscal month of Borrower based upon written evidence satisfactory to Collateral Agent.

"**Secured Promissory Note**" is defined in Section 2.4.

"**Secured Promissory Note Record**" is a record maintained by each Lender with respect to the outstanding Obligations owed by Borrower to Lender and credits made thereto.

"**Securities Account**" is any "securities account" as defined in the Code with such additions to such term as may hereafter be made.

"**Shares**" is one hundred percent (100%) of the issued and outstanding capital stock, membership units or other securities owned or held of record by Borrower or Borrower's Subsidiary, in any Subsidiary; provided that, in the event Borrower, demonstrates to Collateral Agent's reasonable satisfaction, that a pledge of more than sixty five percent (65%) of the Shares of such Subsidiary which is a Foreign Subsidiary, creates a present and existing adverse tax consequence to Borrower under the U.S. Internal Revenue Code, "Shares" shall mean sixty-five percent (65%) of the issued and outstanding capital stock, membership units or other securities owned or held of record by Borrower or its Subsidiary in such Foreign Subsidiary.

"**Solvent**" is, with respect to any Person: the fair salable value of such Person's consolidated assets (including goodwill minus disposition costs) exceeds the fair value of such Person's liabilities; such Person is not left with unreasonably small capital after the transactions in this Agreement; and such Person is able to pay its debts (including trade debts) as they mature.

"**Subordinated Debt**" is indebtedness incurred by Borrower or any of its Subsidiaries subordinated to all Indebtedness of Borrower and/or its Subsidiaries to the Lenders (pursuant to a subordination, intercreditor, or other similar agreement in form and substance satisfactory to Collateral Agent and the Lenders entered into between Collateral Agent, Borrower, and/or any of its Subsidiaries, and the other creditor), on terms acceptable to Collateral Agent and the Lenders.

"**Subsidiary**" is, with respect to any Person, any Person of which more than fifty percent (50%) of the voting stock or other equity interests (in the case of Persons other than corporations) is owned or controlled, directly or indirectly, by such Person or through one or more intermediaries.

"**Success Fee Letter**" is that certain letter agreement entered into by and between Borrower and Oxford on the Effective Date.

"**Term Loan**" is defined in Section 2.2(a)(iv) hereof.

"**Term A Loan**" is defined in Section 2.2(a)(i) hereof.

"**Term B Loan**" is defined in Section 2.2(a)(ii) hereof.

"**Term C Loan**" is defined in Section 2.2(a)(iii) hereof.

"**Term D Loan**" is defined in Section 2.2(a)(iv) hereof.

"**Term Loan Commitment**" is, for any Lender, the obligation of such Lender to make a Term Loan, up to the principal amount shown on Schedule 1.1.

"**Term Loan Commitments**" means the aggregate amount of such commitments of all Lenders.

"**Third Draw Period**" is the period commencing on the date of the occurrence of the First Revenue Event and ending on the earliest of (i) March 31, 2021, (ii) the date that is sixty (60) days immediately after the occurrence of the First Revenue Event and (iii) the occurrence of an Event of Default; provided, however, that the Second Draw Period shall not commence if on the date of the occurrence of the First Revenue Event an Event of Default has occurred and is continuing.

"**Trademarks**" means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

"**Transfer**" is defined in Section 7.1.

"**UK Subsidiary**" means PROCEPT BioRobotics UK, Ltd, a company incorporated and existing under the laws of England Wales and a wholly owned Subsidiary of Borrower.

"**U.S. Person**" means any person that is a "United States Person" as defined in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended.

[***Balance of Page Intentionally Left Blank***]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

BORROWER:

PROCEPT BIOROBOTICS CORPORATION

By	/s/ Kevin Waters
Name:	Kevin Waters
Title:	SVP, Chief Financial Officer

COLLATERAL AGENT AND LENDER:

OXFORD FINANCE LLC

By	
Name:	
Title:	

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

BORROWER:

PROCEPT BIOROBOTICS CORPORATION

By _____
Name: _____
Title: _____

COLLATERAL AGENT AND LENDER:

OXFORD FINANCE LLC

By /s/ Colette H. Featherly
Name: Colette H. Featherly
Title: Senior Vice President

SCHEDULE 1.1

Lenders and Commitments

Term A Loans

Lender	Term Loan Commitment	Commitment Percentage
OXFORD FINANCE LLC	$25,000,000	100.00%
TOTAL	**$25,000,000**	**100.00%**

Term B Loans

Lender	Term Loan Commitment	Commitment Percentage
OXFORD FINANCE LLC	$25,000,000	100.00%
TOTAL	**$25,000,000**	**100.00%**

Term C Loans

Lender	Term Loan Commitment	Commitment Percentage
OXFORD FINANCE LLC	$10,000,000	100.00%
TOTAL	**$10,000,000**	**100.00%**

Term D Loans

Lender	Term Loan Commitment	Commitment Percentage
OXFORD FINANCE LLC	$15,000,000	100.00%
TOTAL	**$15,000,000**	**100.00%**

Aggregate (all Term Loans)

Lender	Term Loan Commitment	Commitment Percentage
OXFORD FINANCE LLC	$75,000,000	100.00%
TOTAL	**$75,000,000**	**100.00%**

EXHIBIT A

Description of Collateral

The Collateral consists of all of Borrower's right, title and interest in and to the following personal property:

All goods, Accounts (including health-care receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles (including Intellectual Property), commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts and other Collateral Accounts, all certificates of deposit, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and

All Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

Notwithstanding the foregoing, the Collateral does not include (i) more than 65% of the total combined voting power of all classes of stock entitled to vote the shares of capital stock (the "Shares") of any Foreign Subsidiary, if Borrower demonstrates to Collateral Agent's reasonable satisfaction that a pledge of more than sixty five percent (65%) of the Shares of such Subsidiary creates a present and existing adverse tax consequence to Borrower under the U.S. Internal Revenue Code; (ii) Excluded Accounts and (iii) any license or contract, in each case if the granting of a Lien in such license or contract is prohibited by or would constitute a default under the agreement governing such license or contract (but (A) only to the extent such prohibition is enforceable under applicable law and (B) other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-408 or 9-409 (or any other Section) of Division 9 of the Code); provided that upon the termination, lapsing or expiration of any such prohibition, such license or contract, as applicable, shall automatically be subject to the security interest granted in favor of Collateral Agent hereunder and become part of the "Collateral."

FIRST AMENDMENT TO LOAN AND SECURITY AGREEMENT

THIS FIRST AMENDMENT to Loan and Security Agreement (this "**Amendment**") is entered into as of January 15, 2021 (the "**Amendment Date**"), by and among OXFORD FINANCE LLC, a Delaware limited liability company with an office located at 115 South Union Street, Suite 300, Alexandria, VA 22314 ("**Oxford**"), as collateral agent (in such capacity, "**Collateral Agent**"), the Lenders listed on Schedule 1.1 to the Loan Agreement (as defined below) or otherwise a party thereto from time to time including Oxford in its capacity as a Lender (each a "**Lender**" and collectively, the "**Lenders**"), and PROCEPT BIOROBOTICS CORPORATION, a California corporation with offices located at 900 Island Drive, Suite 210, Redwood City, California 94065 ("**Borrower**").

WHEREAS, Collateral Agent, Borrower and Lenders have entered into that certain Loan and Security Agreement, dated as of September 25, 2019 (as amended, supplemented or otherwise modified from time to time, the "**Loan Agreement**") pursuant to which Lenders have provided to Borrower certain loans in accordance with the terms and conditions thereof; and

WHEREAS, Borrower, Lenders and Collateral Agent desire to amend certain provisions of the Loan Agreement as provided herein and subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Borrower, Lenders and Collateral Agent hereby agree as follows:

1. Capitalized terms used herein but not otherwise defined shall have the respective meanings given to them in the Loan Agreement.

2. Section 2.2(b) of the Loan Agreement is hereby amended and restated as follows:

(b) Repayment. Borrower shall make monthly payments of interest only commencing on the first (1st) Payment Date following the Funding Date of each Term Loan, and continuing on the Payment Date of each successive month thereafter through and including the Payment Date immediately preceding the Amortization Date. Borrower agrees to pay, on the Funding Date of each Term Loan, any initial partial monthly interest payment otherwise due for the period between the Funding Date of such Term Loan and the first Payment Date thereof. Commencing on the Amortization Date, and continuing on the Payment Date of each month thereafter, Borrower shall make consecutive equal monthly payments of principal, together with applicable interest, in arrears, to each Lender, as calculated by Collateral Agent (which calculations shall be deemed correct absent manifest error) based upon: (1) the amount of such Lender's Term Loan, (2) the effective rate of interest, as determined in Section 2.3(a), and (3) a repayment schedule equal to (i) thirty-six (36) months, if the First Revenue Event does not occur (ii) twenty-four (24) months, if the First Revenue Event occurs but the IPO Event does not occur and (iii) twelve (12) months, if the First Revenue Event occurs and the IPO Event occurs. All unpaid principal and accrued and unpaid interest with respect to each Term Loan is due

and payable in full on the Maturity Date. Each Term Loan may only be prepaid in accordance with Sections 2.2(c) and 2.2(d).

3. Section 6.10 of the Loan Agreement is hereby amended and restated as follows:

6.10 Financial Covenant. Commencing with the quarter ending June 30, 2021, Borrower shall continue to achieve the following, to be tested as of the last day of each quarter, on a consolidated basis with respect to Borrower and its Subsidiaries: revenues for the six months ended at the end of the applicable quarter equal to seventy percent (70%) of the revenues projected for such period in the Approved Forecast (as such Approved Forecast is updated in accordance with this Section 6.10). No later than December 31, 2022, Borrower must deliver to Collateral Agent an updated Approved Forecast covering the period from January 1, 2023 through the Maturity Date, which updated Approved Forecast must be consistent with Borrower's revenue growing fiscal year over fiscal year (over both projected and actual revenues) and be acceptable to Collateral Agent in its sole discretion.

4. Section 10 of the Loan Agreement is hereby amended by amending and restating the address for Collateral Agent therein as follows:

If to Collateral Agent:	OXFORD FINANCE LLC 115 South Union Street Suite 300 Alexandria, VA 22314 Attention: Legal Department Fax: (703) 519-5225 Email: LegalDepartment@oxfordfinance.com
with a copy (which shall not constitute notice) to:	Greenberg Traurig, LLP One International Place Boston, MA 02110 Attn: Abdullah Malik Fax: Email:

5. Section 13.1 of the Loan Agreement is hereby amended by amending and restating the following definition therein as follows:

"**Amortization Date**" is, (i) October 1, 2021, if the First Revenue Event does not occur, (ii) October 1, 2022, if the First Revenue Event Occurs but the IPO Event does not occur and (iii) October 1, 2023, if the First Revenue Event Occurs and the IPO Event occurs.

"**Approved Forecast**" is Borrower's annual financial projections for the entire period from the first day of the second calendar quarter of 2021 and through December 31, 2022 (to be updated, on or before December 31, 2022 in accordance with Section 6.10, to cover the period through the Maturity Date). The Approved Forecast as of the Amendment Date is attached to this Agreement as Exhibit E hereto and such exhibit shall automatically be revised to reflect the updated Approved Forecast delivered by Borrower to Collateral Agent on or before December 31, 2022 in accordance with Section 6.10.

"**First Revenue Event**" is the achievement by Borrower for the first time after the Effective Date and before June 30, 2021 of consolidated trailing six month revenues of at least Six Million Four Hundred Dollars ($6,400,000), determined by Collateral Agent at the end of any fiscal month of Borrower based upon written evidence satisfactory to Collateral Agent.

"**Fourth Draw Period**" is the period commencing on the date of the occurrence of the Second Revenue Event and ending on the earliest of (i) June 30, 2022, (ii) the date that is sixty (60) days immediately after the occurrence of the Second Revenue Event and (iii) the occurrence of an Event of Default; provided, however, that the Fourth Draw Period shall not commence if on the date of the occurrence of the Second Revenue Event an Event of Default has occurred and is continuing.

"**Prepayment Fee**" is, with respect to any Term Loan subject to prepayment prior to the Maturity Date, whether by mandatory or voluntary prepayment, acceleration or otherwise, an additional fee payable to the Lenders in amount equal to:

(i) for a prepayment made on or after the Amendment Date through and including the first anniversary of the Amendment Date, three percent (3.00%) of the principal amount of such Term Loan prepaid;

(ii) for a prepayment made after the date which is after the Amendment Date through and including the second anniversary of the Amendment Date, two percent (2.00%) of the principal amount of the Term Loans prepaid; and

(iii) for a prepayment made after the date which is after the second anniversary of the Amendment Date and prior to the Maturity Date, one percent (1.00%) of the principal amount of the Term Loans prepaid.

"**Second Revenue Event**" is the achievement by Borrower for the first time after the Effective Date and before June 30, 2022 of consolidated trailing six month revenues of at least Twenty Five Million Dollars ($25,000,000), determined by Collateral Agent at the end of any fiscal month of Borrower based upon written evidence satisfactory to Collateral Agent.

"**Third Draw Period**" is the period commencing on the date of the occurrence of the Third Draw Period Commencement Event and ending on the earliest of (i) March 31, 2022, (ii) the date that is sixty (60) days immediately after the occurrence of the Third Draw Period Commencement Event and (iii) the occurrence of an Event of Default; provided, however, that the Third Draw Period shall not commence if on the date of the occurrence of the Third Draw Period Commencement Event an Event of Default has occurred and is continuing.

6. Section 13.1 of the Loan Agreement is hereby amended by adding the following definitions thereto in alphabetical order:

"**Amendment Date**" means January 15, 2021.

"**Third Draw Period Commencement Event**" is the achievement by Borrower for the first time after the Effective Date and before March 31, 2022 of consolidated trailing six month revenues of at least Twenty Million Dollars ($20,000,000), determined by Collateral Agent at the end of any fiscal month of Borrower based upon written evidence satisfactory to Collateral Agent.

7. Exhibit A attached hereto is hereby added as Exhibit E to the Loan Agreement and made a part thereof.

8. Limitation of Amendment.

a. The amendments set forth above are effective for the purposes set forth herein and shall be limited precisely as written and shall not be deemed to (a) be a consent to any amendment, waiver or modification of any other term or condition of any Loan Document, or (b) otherwise prejudice any right, remedy or obligation which Lenders or Borrower may now have or may have in the future under or in connection with any Loan Document, as amended hereby.

b. This Amendment shall be construed in connection with and as part of the Loan Documents and all terms, conditions, representations, warranties, covenants and agreements set forth in the Loan Documents, are hereby ratified and confirmed and shall remain in full force and effect.

9. To induce Collateral Agent and Lenders to enter into this Amendment, Borrower hereby represents and warrants to Collateral Agent and Lenders as follows:

a. Immediately after giving effect to this Amendment (a) the representations and warranties contained in the Loan Documents are true, accurate and complete in all material respects as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct as of such date), and (b) no Event of Default has occurred and is continuing;

b. Borrower has the power and due authority to execute and deliver this Amendment and to perform its obligations under the Loan Agreement, as amended by this Amendment;

c. The organizational documents of Borrower delivered to Collateral Agent on the Effective Date, and updated pursuant to subsequent deliveries by or on behalf of the Borrower to the Collateral Agent, remain true, accurate and complete and have not been amended, supplemented or restated and are and continue to be in full force and effect;

d. The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not contravene (i) any material law or regulation binding on or affecting Borrower, (ii) any material contractual restriction with a Person binding on Borrower, (iii) any material order, judgment or decree of any court or other governmental or public body or authority, or subdivision thereof, binding on Borrower, or (iv) the organizational documents of Borrower;

e. The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not require any order, consent, approval, license, authorization or validation of, or filing, recording or registration with, or exemption by any governmental or public body or authority, or subdivision thereof, binding on Borrower, except as already has been obtained or made; and

f. This Amendment has been duly executed and delivered by Borrower and is the binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium or other similar laws of general application and equitable principles relating to or affecting creditors' rights.

10. Except as expressly set forth herein, the Loan Agreement shall continue in full force and effect without alteration or amendment.

11. The Borrower hereby remises, releases, acquits, satisfies and forever discharges the Lenders and Collateral Agent, their agents, employees, officers, directors, predecessors, attorneys and all others acting or purporting to act on behalf of or at the direction of the Lenders and Collateral Agent **("Releasees**"), of and from any and all manner of actions, causes of action, suit, debts, accounts, covenants, contracts, controversies, agreements, variances, damages, judgments, claims and demands whatsoever, in law or in equity, which any of such parties ever had, now has or, to the extent arising from or in connection with any act, omission or state of facts taken or existing on or prior to the date hereof, may have after the date hereof against the Releasees, for, upon or by reason of any matter, cause or thing whatsoever relating to or arising out of the Loan Agreement or the other Loan Documents on or prior to the date hereof and through the date hereof. Without limiting the generality of the foregoing, the Borrower waives and affirmatively

agrees not to allege or otherwise pursue any defenses, affirmative defenses, counterclaims, claims, causes of action, setoffs or other rights they do, shall or may have as of the date hereof, including the rights to contest: (a) the right of Collateral Agent and each Lender to exercise its rights and remedies described in the Loan Documents; (b) any provision of this Amendment or the Loan Documents; or (c) any conduct of the Lenders or other Releasees relating to or arising out of the Loan Agreement or the other Loan Documents on or prior to the date hereof.

12. This Amendment shall be deemed effective as of the Amendment Date upon (a) the due execution and delivery to Collateral Agent of this Amendment by each party hereto, and (b) Borrower's payment of all Lenders' Expenses incurred through the date hereof, which may be debited (or ACH'd) from the Designated Deposit Account in accordance with Section 2.3(d) of the Loan Agreement.

13. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument.

14. This Amendment and the rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of California.

[*Balance of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Loan Agreement to be executed as of the date first set forth above.

BORROWER:

PROCEPT BIOROBOTICS CORPORATION

By:	/s/ Kevin Waters
Name:	Kevin Waters
Title:	Chief Financial Officer

COLLATERAL AGENT AND LENDER:

OXFORD FINANCE LLC

By:	/s/ Colette H. Featherly
Name:	Colette H. Featherly
Title:	Senior Vice President

CONSENT AND SECOND AMENDMENT TO LOAN AND SECURITY AGREEMENT

THIS CONSENT AND SECOND AMENDMENT to Loan and Security Agreement (this "**Amendment**") is entered into as of April 6, 2021 (the "**Amendment Date**"), by and among OXFORD FINANCE LLC, a Delaware limited liability company with an office located at 115 South Union Street, Suite 300, Alexandria, VA 22314 (in its individual capacity, "**Oxford**"; and in its capacity as Collateral Agent, "**Collateral Agent**"), the Lenders listed on Schedule 1.1 thereof from time to time including Oxford in its capacity as a Lender (each a "**Lender**" and collectively, the "**Lenders**"), PROCEPT BIOROBOTICS CORPORATION, a California corporation with offices located at 900 Island Drive, Suite 210, Redwood City, California 94065 ("**Existing Borrower**") and PROCEPT BIOROBOTICS CORPORATION, a Delaware corporation with offices located at 900 Island Drive, Suite 210, Redwood City, California 94065 ("**New Borrower**").

WHEREAS, Collateral Agent, Existing Borrower and Lenders have entered into that certain Loan and Security Agreement, dated as of September 25, 2019 (as amended, supplemented or otherwise modified from time to time, the "**Loan Agreement**") pursuant to which Lenders have provided to Borrower certain loans in accordance with the terms and conditions thereof;

WHEREAS; Existing Borrower and New Borrower are entering into that certain Agreement and Plan of Merger (in the form attached hereto as Exhibit A, the "**Merger Agreement**"), dated March 6, 2021, pursuant to the terms of which, among other things, Existing Borrower will merge into New Borrower, and all equity interests of Existing Borrower outstanding immediately prior to the Effective Time (as defined in the Merger Agreement as in effect on the date hereof) shall be automatically converted solely into the right to receive a number of shares of the New Borrower's capital stock in accordance with the terms set forth in the Merger Agreement;

WHEREAS, pursuant to the Loan Agreement the Existing Borrower is required to obtain the prior consent of the Lenders and the Collateral Agent prior to consummating the Merger (as defined in the Merger Agreement as in effect on the date hereof);

WHEREAS, the Collateral Agent and Lenders have agreed to provide such consent, but only to the extent set forth herein, in accordance with the terms and subject to the conditions set forth herein, and in reliance upon the representations and warranties set forth herein;

WHEREAS, Existing Borrower, Lenders and Collateral Agent desire to amend certain provisions of the Loan Agreement as provided herein and subject to the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and adequacy of which

are hereby acknowledged, Existing Borrower, New Borrower, Lenders and Collateral Agent hereby agree as follows:

1. **Definitions.** Capitalized terms used herein but not otherwise defined shall have the respective meanings given to them in the Loan Agreement.

2. **Consent**.

   a. Subject to the terms and conditions hereof, and notwithstanding anything to the contrary contained in the Loan Agreement or any other Loan Document, the Collateral Agent and the Lenders hereby consent to (a) Existing Borrower's execution, delivery and performance of the Merger Agreement and without any material changes thereto unless such changes are consented to by the Collateral Agent and the Lenders; (b) consummation of the transactions contemplated by the Merger Agreement; and (c) the New Borrower becoming the "Borrower" under the Loan Agreement with effect from the Amendment Date; provided, however, the consent set forth in this Section 2(a) are contingent upon the satisfaction of the conditions set forth in Section 5 hereof.

   b. The consent set forth in this Section 2 is effective for the purposes set forth herein and shall be limited precisely as written and shall not be deemed to (a) be a consent to any amendment, waiver or modification of any other term or condition of any Loan Document, or (b) otherwise prejudice any right or remedy which Lenders may now have or may have in the future under or in connection with any Loan Document.

3. **Joinder**.

   a. **New Borrower**. New Borrower hereby is added as a "Borrower" under the Loan Agreement. All references in the Agreement to "Borrower" shall hereafter mean and include the New Borrower; and New Borrower shall hereafter have all rights, duties and obligations of "Borrower" thereunder.

   b. **Joinder to Loan Agreement.** New Borrower hereby joins the Loan Agreement and each of the Loan Documents, and agrees to comply with and be bound by all of the terms, conditions and covenants of the Loan Agreement and Loan Documents, as if it were originally named a "Borrower" therein. Without limiting the generality of the preceding sentence, New Borrower agrees that it will be liable for the payment and performance of all obligations and liabilities of Borrower under the Loan Agreement, including, without limitation, the Obligations.

   c. **Grant of Security Interest.** To secure the prompt payment and performance of all of the Obligations, New Borrower hereby grants to Collateral Agent, for the ratable benefit of Lenders, a continuing lien upon and security interest in all of New Borrower's now existing or hereafter arising rights and interest in the

Collateral, whether now owned or existing or hereafter created, acquired, or arising, and wherever located. New Borrower further covenants and agrees that by its execution hereof it shall provide all such information, complete all such forms, and take all such actions, and enter into all such agreements, in form and substance reasonably satisfactory to Collateral Agent and each Lender that are reasonably deemed necessary by Collateral Agent or any Lender in order to grant a valid, perfected first priority security interest to Collateral Agent, for the ratable benefit of Lenders, in the Collateral. New Borrower hereby authorizes Collateral Agent to file financing statements, without notice to New Borrower, with all appropriate jurisdictions in order to perfect or protect Collateral Agent's and/or any Lender's interest or rights hereunder, including a notice that any disposition of the Collateral, by New Borrower or any other Person, shall be deemed to violate the rights of Collateral Agent and each Lender under the Code.

d. **Representations and Warranties.** New Borrower hereby represents and warrants to Collateral Agent and each Lender that all representations and warranties in the Loan Documents made on the part of Existing Borrower are true and correct on the date hereof with respect to Existing Borrower and New Borrower, with the same force and effect as if New Borrower were named as "Borrower" in the Loan Documents in addition to Existing Borrower.

4. **Amendments**.

a. Section 13.1 of the Loan Agreement is hereby amended by amending and restating the following definitions therein as follows:

"**Borrower**" is PROCEPT BIOROBOTICS CORPORATION, a Delaware corporation (successor by merger with PROCEPT BIOROBOTICS CORPORATION, a California corporation).

"Success Fee Letter" is that certain letter agreement entered into by and between Borrower and Oxford on April 6, 2021.

b. Exhibit C to the Loan Agreement is hereby amended and restated as set forth on Exhibit B hereto.

c. Exhibit D to the Loan Agreement is hereby amended and restated as set forth on Exhibit C hereto.

d. The amendments set forth in this Section 4 are effective for the purposes set forth herein and shall be limited precisely as written and shall not be deemed to (a) be a consent to any amendment, waiver or modification of any other term or condition of any Loan Document, or (b) otherwise prejudice any right, remedy or obligation which Lenders, New Borrower or Borrower may now have or may have in the future under or in connection with any Loan Document, as amended hereby.

5. **Conditions Precedent**. This Amendment is contingent upon, and shall be deemed effective as of the Closing (as defined in the Merger Agreement as in effect on the date hereof) upon the satisfaction of each of the following conditions:

a. the Collateral Agent's receipt of this Amendment duly executed by each of the Borrower, New Borrower, the Collateral Agent and each Lender;

b. the Collateral Agent's receipt of a copy of the Merger Agreement executed by the Borrower and New Borrower, and all documents and filings related thereto;

c. the Collateral Agent's receipt (i) of such certificates of resolutions or other action, incumbency certificates and/or other certificates of New Borrower as the Collateral Agent may require evidencing (A) the authority of New Borrower to become a party the Loan Agreement and the other Loan Documents to which New Borrower is a party or is to become a party; (B) the approval of New Borrower to become a party to the Loan Agreement and the other Loan Documents to which New Borrower is a party or is to become a party by New Borrower's Board of Directors and, if applicable, New Borrower's stockholders and (B) the identity, authority and capacity of each officer of New Borrower authorized to act as on behalf of the New Borrower in connection with the Loan Agreement and the other Loan Documents to which New Borrower is a party or is to become a party, and (ii) copies of New Borrower's organizational documents and such other documents and certifications as the Collateral Agent may reasonably require to evidence that New Borrower is duly organized or formed, and that New Borrower is validly existing and in good standing in its jurisdiction of organization;

d. Collateral Agent's receipt of all documents and instruments, including Uniform Commercial Code financing statements, required by law by the Collateral Agent to be filed, registered or recorded to create or perfect the first priority Liens intended to be created under the Loan Documents and all such documents and instruments shall have been so filed, registered or recorded to the satisfaction of the Collateral Agent;

e. Collateral Agent's receipt of evidence that no Liens exist on the assets of the New Borrower upon the consummation of the Merger other than Permitted Liens and such other Liens that each of the Collateral Agent and Lenders shall consent to in their sole discretion, and no Liens will be effected on the assets of the New Borrower as a consequence of the consummation of the Merger or the other transactions contemplated in the Merger Agreement, in each case, other than Liens that would comprise Permitted Liens under the Loan Agreement;

f. delivery by New Borrower of executed amended and restated Secured Promissory Notes to the Collateral Agent and the Lenders in the form attached hereto as Exhibit B.

g. delivery by New Borrower of Success Fee Letter;

h. delivery by New Borrower of its Perfection Certificate to Collateral Agent; and

i. (i) the representations and warranties contained in the Loan Documents will be true, accurate and complete in all material respects as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct in all material respects as of such date), and (ii) no Event of Default shall have occurred and be continuing.

6. **Covenants.** New Borrower shall do all of the following:

a. No later than seven (7) days after the Amendment Date, deliver to Collateral Agent evidence satisfactory to Collateral Agent that New Borrower is qualified and licensed to do business and is in good standing in its jurisdiction of incorporation;

b. No later than seven (7) days after the Amendment Date, deliver to Collateral Agent evidence satisfactory to Collateral Agent that New Borrower is qualified and licensed to do business and is in good standing in California;

c. No later than thirty (30) days after the Amendment Date, deliver to Collateral Agent evidence satisfactory to Collateral Agent that all insurance required to be maintained pursuant to the Loan Documents and all endorsements in favor of the Collateral Agent required under the Loan Documents have been obtained and are in effect;

d. No later than fourteen (14) days after the Amendment Date, deliver to Collateral Agent the Control Agreements required pursuant to Section 6.6 of the Loan Agreement; and

e. No later than three (3) days after the Amendment Date, deliver to Collateral Agent (i) an executed and complete Form W-9 for New Borrower and (ii) executed original amended and restated Secured Promissory Notes, PDF copies of which New Borrower shall deliver on the Amendment Date pursuant to Section 4(g) above.

7. **Representations and Warranties**. Existing Borrower and New Borrower hereby, jointly and severally, represent and warrant to Collateral Agent and Lenders as follows:

a. Immediately prior to and after giving effect to this Amendment, (a) the representations and warranties contained in the Loan Documents are true, accurate and complete in all material respects as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct as of such date), and (b) no Event of Default has occurred and is continuing;

b. Existing Borrower and New Borrower have the power and due authority to execute and deliver this Amendment and to perform its obligations under the Loan Agreement, as amended by this Amendment;

c. The organizational documents of Existing Borrower and New Borrower delivered to Collateral Agent, and updated pursuant to subsequent deliveries by the Existing Borrower to the Collateral Agent, if applicable, remain true, accurate and complete and have not been amended, supplemented or restated and are and continue to be in full force and effect;

d. The execution and delivery by Existing Borrower and New Borrower of this Amendment and the performance by Existing Borrower and New Borrower of their respective obligations under the Loan Agreement, as amended by this Amendment, do not and will not (i) contravene any material Requirement of Law applicable thereto, (ii) contravene any order, judgment or decree of any Governmental Authority binding on Existing Borrower or New Borrower, (iii) contravene the organizational documents of Existing Borrower or New Borrower, or (iv) constitute an event of default under any material agreement by which Existing Borrower or New Borrower or any of their respective Subsidiaries, or their respective properties, is bound;

e. The execution and delivery by Existing Borrower and New Borrower of this Amendment and the performance by Existing Borrower and New Borrower of their respective obligations under the Loan Agreement, as amended by this Amendment, do not require any order, consent, approval, license, authorization or validation of, or filing, recording or registration with, or exemption by any Governmental Authority binding on Existing Borrower or New Borrower;

f. This Amendment has been duly executed and delivered by Existing Borrower and New Borrower and is the binding obligation of Existing Borrower and New Borrower, enforceable against Existing Borrower and New Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium or other similar laws of general application and equitable principles relating to or affecting creditors' rights; and

g. This Amendment shall be construed in connection with and as part of the Loan Documents and all terms, conditions, representations, warranties, covenants and agreements set forth in the Loan Documents, except as herein amended, are hereby ratified and confirmed and shall remain in full force and effect.

8. **Release**. Each of Existing Borrower and New Borrower hereby remises, releases, acquits, satisfies and forever discharges the Lenders and Collateral Agent, their agents, employees, officers, directors, predecessors, attorneys and all others acting or purporting to act on behalf of or at the direction of the Lenders and Collateral Agent ("**Releasees**"), of and from any and all manner of actions, causes of action, suit, debts, accounts,

covenants, contracts, controversies, agreements, variances, damages, judgments, claims and demands whatsoever, in law or in equity, which any of such parties ever had, now has or, to the extent arising from or in connection with any act, omission or state of facts taken or existing on or prior to the date hereof, may have after the date hereof against the Releasees, for, upon or by reason of any matter, cause or thing whatsoever relating to or arising out of the Loan Agreement or the other Loan Documents on or prior to the date hereof and through the date hereof. Without limiting the generality of the foregoing, each of Existing Borrower and New Borrower waives and affirmatively agrees not to allege or otherwise pursue any defenses, affirmative defenses, counterclaims, claims, causes of action, setoffs or other rights they do, shall or may have as of the date hereof, including the rights to contest: (a) the right of Collateral Agent and each Lender to exercise its rights and remedies described in the Loan Documents; (b) any provision of this Amendment or the Loan Documents; or (c) any conduct of the Lenders or other Releasees relating to or arising out of the Loan Agreement or the other Loan Documents on or prior to the date hereof.

9. Without limiting the provisions of Section 2.5(d) of the Loan Agreement, Existing Borrower and New Borrower hereby agree to promptly pay (without duplication) all unpaid Lenders' Expenses incurred through the date hereof, which may be debited (or ACH'd) from any of Existing Borrower's or New Borrower's accounts.

10. **Miscellaneous**.

a. Except as expressly set forth herein, the Loan Agreement shall continue in full force and effect without alteration or amendment. The Existing Borrower, New Borrower, Lenders and Collateral Agent agree that this Amendment shall be a Loan Document. This Amendment and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements.

b. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument.

c. This Amendment and the rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of California.

[*Balance of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Consent and First Amendment to Loan and Security Agreement be executed as of the Amendment Date.

EXISTING BORROWER:

PROCEPT BIOROBOTICS CORPORATION
a California corporation

By:	/s/ Kevin Waters
Name:	Kevin Waters
Title:	SVP, Chief Financial Officer

NEW BORROWER:

PROCEPT BIOROBOTICS CORPORATION,
a Delaware corporation

By:	/s/ Kevin Waters
Name:	Kevin Waters
Title:	SVP, Chief Financial Officer

COLLATERAL AGENT AND LENDER:

OXFORD FINANCE LLC

By:	/s/ Colette H. Featherly
Name:	Colette H. Featherly
Title:	Senior Vice President

LEASE AGREEMENT

By and Between

WESTPORT OFFICE PARK, LLC,
a California limited liability company

("Landlord")

and

PROCEPT BIOROBOTICS CORPORATION,
a California corporation

("Tenant")

July 15, 2013

TABLE OF CONTENTS

LEASE AGREEMENT

THIS LEASE AGREEMENT, (this "Lease") is made and entered into as of July 15, 2013 by and between WESTPORT OFFICE PARK, LLC, a California limited liability company ("Landlord"), and Tenant identified in the Basic Lease Information below.

BASIC LEASE INFORMATION

Tenant: **PROCEPT BIOROBOTICS CORPORATION, a California corporation**

Premises: Suite 101 in the Building, containing approximately **10,814** square feet of rentable area, outlined in Exhibit B to this Lease. For purposes of this Lease, (1) "rentable area" and "usable area" shall be calculated pursuant to the Standard Method for Measuring Floor Area in Office Buildings (ANSI/BOMA Z65.1, 1996); (2) "rentable square feet" and "rentable footage" shall have the same meaning as the term "rentable area;" and (3) "usable square feet" and "usable square footage" shall have the same meaning as the term "usable area."

Building: The Building commonly known as 900 Island Drive, Redwood City, California 94065. The rentable area of the Building is 48,615 square feet. The rentable area of the Project (as defined in Section 1.1 of the Lease) is 997,186 square feet.

Base Rent:

Period (In Months)	Annual Base Rent	Monthly Base Rent
1–12	$389,304.00	$32,442.00*
13–24	$400,983.12	$33,415.26
25–36	$412,662.24	$34,388.52

*Base Rent for the first four (4) full calendar months of the initial Term is subject to abatement pursuant to Section 4.7 of the Lease.

Security Deposit: None

Letter of Credit: $137,553.56, subject to Article 53 of the Lease

Rent Payable Upon Execution: $43,904.84

Tenant's Building Percentage: 22.24% (10,814 rentable square feet within the Premises/ 48,615 rentable square feet within the Building)

Tenant's Common Area Building Percentage: 1.08% (10,814 rentable square feet within the Premises/ 997,186 rentable square feet within the Project)

Commencement Date: Subject to Tenant Delays (defined below in Section 2.1), the date that is the later of (i) September 1, 2013 (the "Scheduled Commencement Date") and (ii) the date upon which Substantial Completion (as defined in Section 2.1 of this Lease) of the

Landlord Work (defined in Exhibit C attached hereto) (excluding the clean room portion of the Landlord Work) occurs.

Expiration Date: The date that is the day prior to the day that is thirty-six (36) months after the Commencement Date, unless such date falls on a day other than the last day of the calendar month, in which case the Expiration Date shall be extended to the last day of the calendar month in which the day that the Term of this Lease would otherwise end but for this proviso occurs, and the Term of this Lease shall be extended accordingly.

Landlord's Address:

c/o The Prudential Insurance Company of America
4 Embarcadero Center, 27th Floor
San Francisco, CA 94111
Attn: PRISA II Asset Management

With a copy by the same method to:

c/o The Prudential Insurance Company of America
7 Giralda Farms
Madison, New Jersey 07940
Attention: Greg Shanklin, Esquire

With a copy by the same method to:

Harvest Properties, Inc.
6425 Christie Avenue, Suite 220
Emeryville, California 94608
Attention: Joss Hanna

Address for rental payment:

Payments via FedEx/UPS/Courier:

JP Morgan Chase
2710 Media Center Dr.
Building #6, Suite #120
Los Angeles, CA 90065
Attn: PREI's Westport Office Park/100170

Payments via regular mail (lockbox address):

Remit to: PREI's Westport Office Park #171201
P.O. Box 100170
Pasadena, CA 91189-0170

Payments via either FED wire or ACH wire:

Bank Account Name:
Harvest Properties, Inc. LLC,

as agent for PREI's Westport Office Park
Bank Account Number
Bank Name: JP Morgan Chase Bank, N.A.
Bank City & State Location: Baton Rouge, LA
ABA Routing Number:

Tenant's Address:

Procept BioRobotics Corporation
900 Island Drive, Suite 101
Redwood City, California
Attention: CFO
Landlord's Broker: Cassidy Turley / BT
Commercial Real Estate.

Tenant's Broker: Cornish & Carey Commercial Newark Knight Frank.

Maximum Parking Allocation: Thirty-five (35) unreserved passes at no charge during the initial Term, which is based on a parking ratio of 3.3 non-exclusive parking spaces per one thousand (1,000) square feet of rentable space in the Premises.

Tenant Improvement Allowance: $216,280.00 (representing $20.00 per rentable square foot of the Premises).

The Basic Lease Information is incorporated into and made part of this Lease. Each reference in this Lease to any Basic Lease Information shall mean the applicable information set forth in the Basic Lease Information, except that in the event of any conflict between an item in the Basic Lease Information and this Lease, this Lease shall control. Additional defined terms used in the Basic Lease Information shall have the meanings given those terms in this Lease.

ARTICLE 1.
PREMISES; COMMON AREAS

1.1 Subject to all of the terms and conditions hereinafter set forth, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises. The property shown on Exhibit A to this Lease and all improvements thereon and appurtenances on that land thereto, including, but not limited to, the Building, other office buildings, access roadways, and all other related areas, shall be collectively hereinafter referred to as the "Project." Tenant acknowledges and agrees that Landlord may elect to sell one or more of the buildings within the Project and that upon any such sale Tenant's pro-rata share of those Operating Expenses and Taxes (each as defined below) allocated to the areas of the Project other than buildings may be adjusted accordingly by Landlord. The parties hereto hereby acknowledge that the purpose of Exhibit A and Exhibit B are to show the approximate location of the Premises in the Building and the general layout of the Project and such Exhibits are not meant to constitute an agreement, representation or warranty as to the construction of the Premises, the Building or the Project, the precise area of the Premises, the Building or the Project or the specific location of the Building,

"Common Areas," as that term is defined in Section 1.2, below, or the elements thereof or of the accessways to the Premises, or the Project.

1.2 Tenant shall have the non-exclusive right to use in common with other tenants in the Project, and subject to the rules and regulations referred to in Article 26 of this Lease, those portions of the Project which are provided, from time to time, for use in common by Landlord, Tenant and any other tenants of the Project (such areas, together with such other portions of the Project designated by Landlord, in its discretion, including certain areas designated for the exclusive use of certain tenants, or to be shared by Landlord and certain tenants, are collectively referred to herein as the "Common Areas"). The Common Areas shall consist of the "Project Common Areas" and the "Building Common Areas." The term "Project Common Areas," as used in this Lease, shall mean the portion of the Project reasonably designated as such by Landlord. The term "Building Common Areas," as used in this Lease, shall mean the portions of the Common Areas located within the Building reasonably designated as such by Landlord. The Common Areas shall be maintained and operated in a manner consistent with office buildings of similar class, size and age as the Building located in the vicinity of the Building and the use thereof shall be subject to such rules, regulations and restrictions as Landlord may make from time to time. Landlord reserves the right to close temporarily, make alterations or additions to, or change the location of elements of the Project and the Common Areas. Subject to "Applicable Laws," as that term is defined in Section 5.1(a) of this Lease, except when and where Tenant's right of access is specifically excluded in this Lease, and except in the event of an emergency, Tenant shall have the right of access to the Premises, the Building, and the parking facilities servicing the Building twenty-four (24) hours per day, seven (7) days per week during the "Term," as that term is defined in Section 2.1, below.

ARTICLE 2.
TERM AND CONDITION OF PREMISES

2.1 The term of this Lease (the "Term") shall commence on the Commencement Date and end on the Expiration Date, unless sooner terminated (the "Termination Date") as hereinafter provided. Landlord's Work shall be deemed "Substantially Completed" upon (i) the completion of construction of the Landlord's Work in the Premises pursuant to the approved Plans (defined in Exhibit C attached hereto), with the exception of any minor or unsubstantial details or construction, mechanical adjustment or decoration which remain to be performed; and (ii) the issuance of either (A) a certificate of substantial completion by Landlord's architect as to construction of Landlord's Work; or (B) a temporary or permanent certificate of occupancy by the local building authority (or a reasonably substantial equivalent such as a sign-off from a building inspector). The Commencement Date of this Lease and the obligation of Tenant to pay Base Rent, Additional Rent and all other charges hereunder shall not be delayed or postponed by reason of any delay by Tenant in performing changes or alterations in the Premises not required to be performed by Landlord. Notwithstanding the foregoing, if Substantial Completion of the Landlord Work (excluding the clean room portion) is delayed beyond the Scheduled Commencement Date due to or related to the acts or omissions of Tenant, its agents, employees, licensees, or invitees, including, without limitation: (a) delays by Tenant in the submission of information (including the Plans) required of Tenant pursuant to Exhibit C,

or the giving of authorizations or approvals within any time limits set forth in Exhibit C; (b) Tenant's request for materials, finishes or installations other than Landlord's standard except those, if any, that Landlord shall have expressly agreed to furnish without extension of time agreed by Landlord, so long as Landlord informs Tenant within three (3) business days of Tenant's selection of such items that a delay is likely to result from its selection; (c) Tenant's change in any plans or specifications after approval by Landlord; (d) performance or completion by a party employed by Tenant; or (e) the postponement of any of the Landlord Work at the request of Tenant (each of the foregoing, a "Tenant Delay"), the Commencement Date and the payment of rent under this Lease shall be accelerated by the number of days of such Tenant Delay. In the event the Term shall commence on a day other than the first day of a month, then the Base Rent shall be immediately paid for such partial month prorated in accordance with Section 4.4 below. As soon as the Commencement Date is determined, Tenant shall execute a Commencement Date memorandum in the form attached hereto as Exhibit F acknowledging, among other things, the (a) Commencement Date, (b) scheduled Expiration Date of this Lease and (c) Tenant's acceptance of the Premises. The Tenant's failure to execute the Commencement Date Memorandum shall not affect Tenant's liability hereunder.

2.2 Landlord shall perform the construction work as provided in Exhibit C hereto ("Landlord's Work"). Except for Landlord's Work, Landlord has no obligation to construct improvements in the Premises.

2.3 Tenant shall give Landlord written notice of any incomplete work, unsatisfactory conditions or defects (the "Punch List Items") which were part of Landlord's Work in the Premises within thirty (30) days after the Commencement Date and Landlord shall, at its sole expense, complete said work and/or remedy such unsatisfactory conditions or defects as soon as possible. The existence of any incomplete work, unsatisfactory conditions or defects as aforesaid shall not affect the Commencement Date or the obligation of Tenant to pay Base Rent, Additional Rent and all other charges hereunder.

2.4 Subject to completion of the Punch List Items, the taking of possession of the Premises by Tenant shall be conclusive evidence that the Premises and the Building were in good and satisfactory condition at the time possession was taken by Tenant. Neither Landlord nor Landlord's agents have made any representations or promises with respect to the condition of the Building, the Premises, the land upon which the Building is constructed, or any other matter or thing affecting or related to the Building or the Premises, except as herein expressly set forth, and no rights, easements or licenses are acquired by Tenant by implication or otherwise except as expressly set forth in this Lease. Pursuant to Civil Code section 1938, Landlord states that, as of the Lease Date, the Leased Premises has not undergone inspection by a "Certified Access Specialist" ("CASp") to determine whether the Leased Premises meet all applicable construction-related accessibility standards under California Civil Code section 55.53.

ARTICLE 3.
USE, NUISANCE, OR HAZARD

3.1 The Premises shall be used and occupied by Tenant solely for general office, research and development purposes and for light manufacturing of medical devices and for no other purposes without the prior written consent of Landlord.

3.2 Tenant shall not use, occupy, or permit the use or occupancy of the Premises for any purpose which Landlord, in its reasonable discretion, deems to be illegal, immoral, or dangerous; permit any public or private nuisance; do or permit any act or thing which may disturb the quiet enjoyment of any other tenant of the Project; keep any substance or carry on or permit any operation which might introduce offensive odors or conditions into other portions of the Project, use any apparatus which might make undue noise or set up vibrations in or about the Project; permit anything to be done which would increase the premiums paid by Landlord for fire and extended coverage insurance on the Project or its contents or cause a cancellation of any insurance policy covering the Project or any part thereof or any of its contents; or permit anything to be done which is prohibited by or which shall in any way conflict with any law, statute, ordinance, or governmental rule, regulation or covenants, conditions and restrictions affecting the Project, including without limitation the CC&R's (as defined below) now or hereinafter in force. Should Tenant do any of the foregoing without the prior written consent of Landlord, and the same is not cured within five (5) business days after notice from Landlord (which five (5) business day period shall be subject to extension if the nature of the breach is such that it is not possible to cure the same within such five (5) business day period so long as the Tenant commences the cure of such breach within such five (5) day period and diligently prosecutes the same to completion) it shall constitute an Event of Default (as hereinafter defined) and shall enable Landlord to resort to any of its remedies hereunder.

3.3 The ownership, operation, maintenance and use of the Project shall be subject to certain conditions and restrictions contained in an instrument ("CC&R's") recorded or to be recorded against title to the Project. Tenant agrees that regardless of when those CC&R's are so recorded, this Lease and all provisions hereof shall be subject and subordinate thereto. Accordingly, as a consequence of that subordination, during any period in which the entire Project is not owned by Landlord, (a) the portion of Operating Expenses and Taxes (each as defined below) for the Common Areas shall be allocated among the owners of the Project as provided in the CC&R's, and (b) the CC&R's shall govern the maintenance and insuring of the portions of the Project not owned by Landlord. Tenant shall, promptly upon request of Landlord, sign all documents reasonably required to carry out the foregoing into effect.

ARTICLE 4.
RENT

4.1 Tenant hereby agrees to pay Landlord the Base Rent. For purposes of Rent adjustment under the Lease, the number of months is measured from the first day of the calendar month in which the Commencement Date falls. Each monthly installment (the "Monthly Rent") shall be payable by check or by money order on or before the first day of each calendar month. In addition to the Base Rent, Tenant also agrees to pay Tenant's Share of Operating Expenses and Taxes (each as hereinafter defined), and any and all other sums of money as shall become due and payable by Tenant as hereinafter set forth, all of which shall constitute additional rent under this Lease (the "Additional Rent"). Landlord expressly reserves the right to apply any payment received to Base Rent or any other items of Rent that are not paid by Tenant. The Monthly Rent and the Additional Rent are sometimes hereinafter collectively called "Rent" and shall be paid when due in lawful money of the United States without demand,

deduction, abatement, or offset to the addresses for the rental payment set forth in the Basic Lease Information, or as Landlord may designate from time to time.

4.2 In the event any Monthly or Additional Rent or other amount payable by Tenant hereunder is not paid within five (5) days after its due date, Tenant shall pay to Landlord a late charge (the "Late Charge"), as Additional Rent, in an amount of five percent (5%) of the amount of such late payment; provided, however, that Tenant shall be entitled to a grace period of five (5) days for the first late payment in a calendar year. Failure to pay any Late Charge shall be deemed a Monetary Default (as hereinafter defined). Provision for the Late Charge shall be in addition to all other rights and remedies available to Landlord hereunder, at law or in equity, and shall not be construed as liquidated damages or limiting Landlord's remedies in any manner. Failure to charge or collect such Late Charge in connection with any one (1) or more such late payments shall not constitute a waiver of Landlord's right to charge and collect such Late Charges in connection with any other similar or like late payments.

4.3 Simultaneously with the execution hereof, Tenant shall deliver to Landlord (i) the Rent Payable Upon Execution as payment of Monthly Rent for the fifth (5th) full calendar month of the initial Term (subject to Tenant's right to receive Abated Base Rent described in Section 4.7 below) and Tenant's Share of Operating Expenses and Taxes for the first (1st) full calendar month of the initial Term; and (ii) the Letter of Credit, as described in Article 53 below. Any Security Deposit that may be required under this Lease shall be held by Landlord as security for the performance by Tenant of all of the covenants of this Lease to be performed by Tenant and Tenant shall not be entitled to interest thereon. The Security Deposit is not an advance rent deposit, an advance payment of any other kind, or a measure of Landlord's damages in any case of Tenant's default. If Tenant fails to perform any of the covenants of this Lease to be performed by Tenant, including without limitation the provisions relating to payment of Rent, the removal of property at the end of the Term, the repair of damage to the Premises caused by Tenant, and the cleaning of the Premises upon termination of the tenancy created hereby, then Landlord shall have the right, but no obligation, to apply the Security Deposit, or so much thereof as may be necessary, for the payment of any Rent or any other sum in default and/or to cure any other such failure by Tenant. If Landlord applies the Security Deposit or any part thereof for payment of such amounts or to cure any such other failure by Tenant, then Tenant shall immediately pay to Landlord the sum necessary to restore the Security Deposit to the full amount then required by this Section 4.3 Landlord's obligations with respect to the Security Deposit are those of a debtor and not a trustee. Landlord shall not be required to maintain the Security Deposit separate and apart from Landlord's general or other funds and Landlord may commingle the Security Deposit with any of Landlord's general or other funds. Upon termination of the original Landlord's or any successor owner's interest in the Premises or the Building, the original Landlord or such successor owner shall be released from further liability with respect to the Security Deposit upon the original Landlord's or such successor owner's complying with California Civil Code Section 1950.7. Subject to the foregoing, Tenant hereby waives the provisions of Section 1950.7 of the California Civil Code, and all other provisions of law, now or hereafter in force, which (a) establish a time frame within which a landlord must refund a security deposit under a lease, and/or (b) provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of

Rent, to repair damage caused by Tenant or to clean the Premises, it being agreed that Landlord may, in addition, claim those sums reasonably necessary to compensate Landlord for any other loss or damage caused by the default of Tenant under this Lease, including without limitation all damages or Rent due upon termination of this Lease pursuant to Section 1951.2 of the California Civil Code. If Tenant performs every provision of this Lease to be performed by Tenant, the unused portion of the Security Deposit shall be returned to Tenant or the last assignee of Tenant's interest under this Lease within thirty (30) days following expiration or termination of the Term of this Lease.

4.4 If the Term commences on a date other than the first day of a calendar month or expires or terminates on a date other than the last day of a calendar month, the Rent for any such partial month shall be prorated to the actual number of days in such partial month.

4.5 All Rents and any other amount payable by Tenant to Landlord hereunder, if not paid when due, shall bear interest from the date due until paid at a rate equal to the prime commercial rate established from time to time by Bank of America, plus four percent (4%) per annum; but not in excess of the maximum legal rate permitted by law. Failure to charge or collect such interest in connection with any one (1) or more delinquent payments shall not constitute a waiver of Landlord's right to charge and collect such interest in connection with any other or similar or like delinquent payments.

4.6 If Tenant fails to make when due two (2) consecutive payments of Monthly Rent or makes two (2) consecutive payments of Monthly Rent which are returned to Landlord by Tenant's financial institution for insufficient funds, Landlord may require, by giving written notice to Tenant, that all future payments of Rent shall be made in cashier's check or by money order. The foregoing is in addition to any other remedy of Landlord hereunder, at law or in equity.

4.7 Notwithstanding anything in this Lease to the contrary, so long as Tenant is not in default under this Lease, Tenant shall be entitled to an abatement of Base Rent with respect to the Premises, as originally described in this Lease, in the amount of $32,442.00 per month for the first four (4) full calendar months of the initial Term. The maximum total amount of Base Rent abated with respect to the Premises in accordance with the foregoing shall equal $129,768.00 (the "Abated Base Rent"). If Tenant defaults under this Lease at any time during the Term and fails to cure such default within any applicable cure period under this Lease, then one (1) month of Abated Base Rent in the amount of $32,442.00 shall immediately become due and payable. Only Base Rent shall be abated pursuant to this Section, as more particularly described herein, and Tenant's pro-rata share of Operating Expenses and Taxes and all other Rent and other costs and charges specified in this Lease shall remain as due and payable pursuant to the provisions of this Lease.

ARTICLE 5.
RENT ADJUSTMENT

5.1 Definitions.

(a) "Operating Expenses", as said term is used herein, shall mean all expenses, costs, and disbursements of every kind and nature which Landlord shall pay or become obligated to pay because of or in connection with the ownership, operation, management, security, repair, restoration, replacement, or maintenance of the Project, or any portion thereof. Operating Expenses shall be computed in accordance with generally accepted real estate practices, consistently applied, and shall include, but not be limited to, the items as listed below:

(i) Wages, salaries, other compensation and any and all taxes, insurance and benefits of, the Building manager and of all other persons engaged in the operation, maintenance and security of the Project;

(ii) Payments under any equipment rental agreements or management agreements, including without limitation the cost of any actual or charged management fee and all expenses for the Project management office including rent, office supplies, and materials therefor;

(iii) Costs of all supplies, equipment, materials, and tools and amortization (including interest on the unamortized cost) of the cost of acquiring or the rental expense of personal property used in the maintenance, operation and repair of the Project, or any portion thereof;

(iv) All costs incurred in connection with the operation, maintenance, and repair of the Project including without limitation, the following: (A) the cost of operation, repair, maintenance and replacement of all systems and equipment and components thereof of the Project; (B) the cost of janitorial, alarm, security and other services, replacement of wall and floor coverings, ceiling tiles and fixtures in common areas, maintenance and replacement of curbs and walkways, repair to roofs and re-roofing; (C) the cost of licenses, certificates, permits and inspections and the cost of contesting any governmental enactments which are reasonably anticipated by Landlord to increase Operating Expenses, and the cost incurred in connection with a transportation system management program or similar program; (D) the cost of landscaping, decorative lighting, and relamping, the cost of maintaining fountains, sculptures, bridges; and (E) costs, fees, charges or assessments imposed by, or resulting from any mandate imposed on Landlord by, any federal, state or local government for fire and police protection, trash removal, community services, or other services which do not constitute "Taxes" as that term is defined below.

(v) The cost of supplying all utilities, the cost of operating, maintaining, repairing, replacing, renovating and managing the utility systems, mechanical systems, sanitary, storm drainage systems, communication systems

and escalator and elevator systems, and the cost of supplies, tools, and equipment and maintenance and service contracts in connection therewith.

(vi) The cost of all insurance carried by Landlord in connection with the Project as reasonably determined by Landlord, including without limitation commercial general liability insurance, physical damage insurance covering damage or other loss caused by fire, earthquake, flood or other water damage, explosion, vandalism and malicious mischief, theft or other casualty, rental interruption insurance and such insurance as may be required by any lessor under any present or future ground or underlying lease of the Building or Project or any holder of a mortgage, deed of trust or other encumbrance now or hereafter in force against the Building or Project or any portion thereof, and any deductibles payable thereunder; including, without limitation, Landlord's cost of any self insurance deductible or retention;

(vii) Capital improvements made to or capital assets acquired for the Project, or any portion thereof, after the Commencement Date that (1) are intended to reduce Operating Expenses or (2) are necessary for the health, safety and/or security of the Project, its occupants and visitors and are deemed advisable and the reasonable judgment of Landlord or (3) are required under any and all applicable laws, statutes, codes, ordinances, orders, rules, regulations, conditions of approval and requirements of all federal, state, county, municipal and governmental authorities and all administrative or judicial orders or decrees and all permits, licenses, approvals and other entitlements issued by governmental entities, and rules of common law, relating to or affecting the Project, the Premises or the Building or the use or operation thereof, whether now existing or hereafter enacted, including, without limitation, the Americans with Disabilities Act of 1990, 42 USC 12111 et seq. (the "ADA") as the same may be amended from time to time, all Environmental Laws (as hereinafter defined), and any CC&R's, or any corporation, committee or association formed in connection therewith, or any supplement thereto recorded in any official or public records with respect to the Project or any portion thereof (collectively, "Applicable Laws"), which capital costs, or an allocable portion thereof, shall be amortized over the reasonable life of such expenditures in accordance with such reasonable life and amortization schedules as shall be determined by Landlord in accordance with generally accepted accounting principles, with interest on the unamortized amount at one percent (1%) in excess of the Wall Street Journal prime lending rate announced from time to time;

(viii) fees, charges and other costs, including management fees (or amounts in lieu thereof), consulting fees, legal fees and accounting fees, of all contractors, engineers, consultants and other persons engaged by Landlord or otherwise incurred by or charged by Landlord in connection with the management, operation, maintenance and repair of the Buildings and the Project (provided that in no event shall the management fees for the Building exceed three percent (3%) of gross receipts for the Building); and

(ix) payments, fees or charges under the CC&R's and any easement, license, operating agreement, declaration, restricted covenant, or instrument pertaining to the sharing of costs by the Project, or any portion thereof.

Expressly excluded from Operating Expenses are the following items:

(x) Advertising and leasing commissions;

(xi) Repairs and restoration paid for by the proceeds of any insurance policies or amounts otherwise reimbursed to Landlord or paid by any other source (other than by tenants paying their share of Operating Expenses);

(xii) Principal, interest, and other costs directly related to financing the Project or ground lease rental or depreciation;

(xiii) The cost of special services to tenants (including Tenant) for which a special charge is made;

(xiv) The costs of repair of casualty damage or for restoration following condemnation to the extent covered by insurance proceeds or condemnation awards;

(xv) The costs of any capital expenditures except as expressly permitted to be included in Operating Expenses as provided under clauses (vi), and (vii) above;

(xvi) The costs, including permit, license and inspection costs and supervision fees, incurred with respect to the installation of tenant improvements within the Project or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space within the Project or promotional or other costs in order to market space to potential tenants;

(xvii) The legal fees and related expenses and legal costs incurred by Landlord (together with any damages awarded against Landlord) due to the violation by Landlord or any tenant of the terms and conditions of any lease of space in the Project;

(xviii) Costs incurred: (x) to comply with Applicable Laws with respect to any Hazardous Materials (as defined below) which were in existence in, on, under or about the Project (or any portion thereof) prior to the Commencement Date, and were of such a nature that a federal, state or municipal governmental or quasi-governmental authority, if it had then had knowledge of the presence of such Hazardous Materials, in the state, and under the conditions that they then existed in, on, under or about the Project, would have then required the removal, remediation or other action with respect thereto; and/or (y) with respect to Hazardous Materials which are disposed of or otherwise introduced into, on, under or about the Project after the date hereof by Landlord or Landlord's agents or employees and are of such a nature, at time of disposition or

introduction, that a federal, state or municipal governmental or quasi-governmental authority, if it had then had knowledge of the presence of such Hazardous Materials, in the state, and under the conditions, that they then existed in, on, under or about the Project, would have then required the removal, remediation or other action with respect thereto; provided, however, Operating Expenses shall include costs incurred in connection with the clean-up, remediation, monitoring, management and administration of (and defense of claims related to) the presence of (1) Hazardous Materials used by Landlord (provided such use is not negligent and is in compliance with Applicable Laws) in connection with the operation, repair and maintenance of the Project to perform Landlord's obligations under this Lease (such as, without limitation, fuel oil for generators, cleaning solvents, and lubricants) and which are customarily found or used in Comparable Buildings and (2) Hazardous Materials created, released or placed in the Premises, Building or the Project by Tenant (or Tenant's affiliates or their tenants, contractors, employees or agents) prior to or after the Commencement Date;

(xix) The attorneys' fees in connection with the negotiation and preparation of letters, deal memos, letters of intent, leases, subleases and/or assignments, space planning costs, and other costs and expenses incurred in connection with lease, sublease and/or assignment negotiations and transactions with present or prospective tenants or other occupants of the Project;

(xx) The expenses in connection with services or other benefits which are not available to Tenant;

(xxi) The overhead and profit paid to Landlord or to subsidiaries or affiliates of Landlord for goods and/or services in the Project to the extent the same exceeds the costs of such goods and/or services rendered by qualified, unaffiliated third parties on a competitive basis;

(xxii) The costs arising from Landlord's charitable or political contributions;

(xxiii) The costs (other than ordinary maintenance and insurance) for sculpture, paintings and other objects of art;

(xxiv) The interest and penalties resulting from Landlord's failure to pay any items of Operating Expense when due;

(xxv) The Landlord's general corporate overhead and general and administrative expenses, costs of entertainment, dining, automobiles or travel for Landlord's employees, and costs associated with the operation of the business of the partnership or entity which constitutes Landlord as the same are distinguished from the costs of the operation of the Project, including partnership accounting and legal matters, costs of defending any lawsuits with any mortgagee, costs of selling, syndicating, financing, mortgaging or hypothecating any of Landlord's

interest in the Project, costs of any disputes between Landlord and its employees (if any) not engaged in the operation of the Project, disputes of Landlord with management, or outside fees paid in connection with disputes with other Project tenants or occupants (except to the extent such dispute is based on Landlord's good faith efforts to benefit Tenant or meet Landlord's obligations under this Lease);

(xxvi) The costs arising from the gross negligence or willful misconduct of Landlord;

(xxvii) The management office rental to the extent such rental exceeds the fair market rental for such space;

(xxviii) Fines, costs or penalties incurred as a result and to the extent of a violation by Landlord of any Applicable Laws;

(xxix) The cost of complying with any Applicable Laws in effect (and as interpreted and enforced) on the date of this Lease, provided that if any portion of the Building or Project that was in compliance with all Applicable Laws on the date of this Lease becomes out of compliance due to normal wear and tear, the cost of bringing such portion of the Building or Project into compliance shall be included in Operating Expenses unless otherwise excluded pursuant to the terms hereof;

(xxx) The cost of operating any commercial concession which is operated by Landlord at the Building;

(xxxi) The costs of correction of latent defects in the Project to the extent covered by warranties; and

(xxxii) The costs of Landlord's membership in professional organizations (such as, by way of example and without limitation, BOMA) in excess of $2,500.00 per year.

(b) "Taxes" shall mean all ad valorem taxes, personal property taxes, and all other taxes, assessments, embellishments, use and occupancy taxes, transit taxes, water, sewer and pure water charges not included in Section 5.1.(a)(v) above, excises, levies, license fees or taxes, and all other similar charges, levies, penalties, or taxes, if any, which are levied, assessed, or imposed, by any Federal, State, county, or municipal authority, whether by taxing districts or authorities presently in existence or by others subsequently created, upon, or due and payable in connection with, or a lien upon, all or any portion of the Project, or facilities used in connection therewith, and rentals or receipts therefrom and all taxes of whatsoever nature that are imposed in substitution for or in lieu of any of the taxes, assessments, or other charges included in its definition of Taxes, and any costs and expenses of contesting the validity of same.

(c) "Lease Year" shall mean the twelve (12) month period commencing January 1st and ending December 31st.

(d) "Tenant's Building Percentage" shall mean Tenant's percentage of the entire Building as determined by dividing the Rentable Area of the Premises by the total Rentable Area of the Building. If there is a change in the total Building Rentable Area as a result of an addition to the Building, partial destruction, modification or similar cause, which event causes a reduction or increase on a permanent basis, Landlord shall cause adjustments in the computations as shall be necessary to provide for any such changes. Landlord shall, at Landlord's option, have the right to segregate Operating Expenses into two (2) separate categories, one (1) such category, to be applicable only to Operating Expenses incurred for the Building and the other category applicable to Operating Expenses incurred for the Common Areas and/or the Project as a whole. If Landlord so segregates Operating Expenses into two (2) categories, two (2) Tenant's Building Percentages shall apply, one (1) such Tenant's Building Percentage shall be calculated by dividing the Rentable Area of the Premises by the total Rentable Area in the Building ("Tenant's Building Only Percentage"), and the other Tenant's Building Percentage to be calculated by dividing the Rentable Area of the Premises by the total Rentable Area of all buildings in the Project ("Tenant's Common Area Building Percentage"). Consequently, if Landlord elects to so segregate Operating Expenses into two (2) categories, any reference in this Lease to "Tenant's Building Percentage" shall mean and refer to both Tenant's Building Only Percentage and Tenant's Common Area Building Percentage of Operating Expenses.

(e) "Tenant's Tax Percentage" shall mean the percentage determined by dividing the Rentable Area of the Premises by the total Rentable Area of all buildings in the Project.

(f) "Market Area" shall mean the Redwood Shores submarket of Redwood City, California (the "City").

(g) "Comparable Buildings" shall mean comparable Class "A" office/R&D use buildings owned by institutions in the Market Area.

5.2 Tenant shall pay to Landlord, as Additional Rent, Tenant's Share (as hereinafter defined) of the Operating Expenses. "Tenant's Share" shall be determined by multiplying Operating Expenses for any Lease Year or pro rata portion thereof, by Tenant's Building Percentage. Landlord shall, in advance of each Lease Year, estimate what Tenant's Share will be for such Lease Year based, in part, on Landlord's operating budget for such Lease Year, and Tenant shall pay Tenant's Share as so estimated each month (the "Monthly Escalation Payments"). The Monthly Escalation Payments shall be due and payable at the same time and in the same manner as the Monthly Rent.

5.3 Landlord shall, within one hundred fifty (150) days after the end of each Lease Year, or as soon thereafter as reasonably possible, provide Tenant with a written statement of the actual Operating Expenses incurred during such Lease Year for the Project and such statement shall set forth Tenant's Share of such Operating Expenses. Tenant shall pay Landlord, as Additional Rent, the difference between Tenant's Share of Operating Expenses and the amount of Monthly Escalation Payments made by Tenant attributable to said Lease Year, such payment to be made within thirty (30) days of the date of Tenant's receipt of said statement (except as provided in Section 5.4 below); similarly, Tenant shall receive a credit if Tenant's

Share is less than the amount of Monthly Escalation Payments collected by Landlord during said Lease Year, such credit to be applied to future Monthly Escalation Payments to become due hereunder. If utilities, janitorial services or any other components of Operating Expenses increase during any Lease Year, Landlord may revise Monthly Escalation Payments due during such Lease Year by giving Tenant written notice to that effect; and thereafter, Tenant shall pay, in each of the remaining months of such Lease Year, a sum equal to the amount of the revised difference in Operating Expenses multiplied by Tenant's Building Percentage divided by the number of months remaining in such Lease Year.

5.4 If, within sixty (60) days following Tenant's receipt of the Operating Expense statement or Taxes statement, neither party hereto delivers to the other party a notice referring in reasonable detail to one (1) or more errors in such statement, it shall be deemed conclusively that the information set forth in such statement(s) is correct. Tenant shall, however, be entitled to conduct or require an audit to be conducted, provided that (a) not more than one (1) such audit may be conducted during any Lease Year of the Term, (b) the records for each Lease Year may be audited only once, (c) such audit is commenced within sixty (60) days following Tenant's receipt of the applicable statement, and (d) such audit is completed and a copy thereof is delivered to Landlord within one hundred eighty (180) days following Tenant's receipt of the applicable statement. Notwithstanding the foregoing, in the event Tenant is unable to complete the audit within such one hundred eighty (180) day period due to Landlord's failure to provide the records reasonably necessary for Tenant to exercise its audit rights under this Section 5.4, such period shall be extended on a day for day basis for each day any delay in completing Tenant's audit arises directly as a result of Landlord's failure to provide such records. If Landlord responds to any such audit with an explanation of any issues raised in the audit, such issues shall be deemed resolved unless Tenant responds to Landlord with further written objections within thirty (30) days after receipt of Landlord's response to the audit. In no event shall payment of Rent ever be contingent upon the performance of such audit. For purposes of any audit, Tenant or Tenant's duly authorized representative, at Tenant's sole cost and expense, shall have the right, upon fifteen (15) days' written notice to Landlord, to inspect Landlord's books and records pertaining to Operating Expenses and Taxes at the offices of Landlord or Landlord's managing agent during ordinary business hours, provided that such audit must be conducted so as not to unreasonably interfere with Landlord's business operations and must be reasonable as to scope and time. If actual Operating Expenses or Taxes are determined to have been overstated or understated by Landlord for any calendar year, then the parties shall within thirty (30) days thereafter make such adjustment payment or refund as is applicable, and if actual Operating Expenses and Taxes are determined to have been overstated by Landlord for any calendar year by in excess of five percent (5%), then Landlord shall pay the reasonable cost of Tenant's audit, not to exceed $2,500.00.

5.5 If the occupancy of the Building during any part of any Lease Year is less than ninety-five percent (95%), Landlord shall make an appropriate adjustment of the variable components of Operating Expenses for that Lease Year, as reasonably determined by Landlord using sound accounting and management principles, to determine the amount of Operating Expenses that would have been incurred had the Building been ninety-five percent (95%) occupied. This amount shall be considered to have been the amount of Operating Expenses for

that Lease Year. For purposes of this Section 5.5, "variable components" include only those component expenses that are affected by variations in occupancy levels.

5.6 Tenant shall pay to Landlord, as Additional Rent, "Tenant's Tax Share" (as hereinafter defined) of the Taxes. "Tenant's Tax Share" shall be determined by multiplying Taxes for any Lease Year or pro rata portion thereof, by Tenant's Tax Percentage. Landlord shall, in advance of each Lease Year, estimate what Tenant's Tax Share will be for such Lease Year and Tenant shall pay Tenant's Tax Share as so estimated each month (the "Monthly Tax Payments"). The Monthly Tax Payments shall be due and payable at the same time and in the same manner as the Monthly Rent.

5.7 Landlord shall, within one hundred fifty (150) days after the end of each Lease Year, or as soon thereafter as reasonably possible, provide Tenant with a written statement of the actual Taxes incurred during such Lease Year for the Project and such statement shall set forth Tenant's Tax Share of such Taxes. Tenant shall pay Landlord, as Additional Rent, the difference between Tenant's Tax Share of Taxes and the amount of Monthly Tax Payments made by Tenant attributable to said Lease Year, such payment to be made within thirty (30) days of the date of Tenant's receipt of said statement; similarly, Tenant shall receive a credit if Tenant's Tax Share is less than the amount of Monthly Tax Payments collected by Landlord during said Lease Year, such credit to be applied to future Monthly Tax Payments to become due hereunder. If Taxes increase during any Lease Year, Landlord may revise Monthly Tax Payments due during such Lease Year by giving Tenant written notice to that effect; and, thereafter, Tenant shall pay, in each of the remaining months of such Lease Year, a sum equal to the amount of revised difference in Taxes multiplied by Tenant's Tax Percentage divided by the number of months remaining in such Lease Year.

5.8 If the Taxes for any Lease Year are changed as a result of protest, appeal or other action taken by a taxing authority, the Taxes as so changed shall be deemed the Taxes for such Lease Year. If in any year the Project is less than one hundred percent (100%) occupied, the elements of Taxes which vary depending upon the occupancy of the Project (e.g., Taxes attributable to the build out of leasable floor area), shall be adjusted to reflect such amount as would have been incurred had the Project been at least one hundred percent (100%) occupied during such year. Any reasonable expenses incurred by Landlord in attempting to protest, reduce or minimize Taxes shall be included in Taxes in the Lease Year in which those expenses are paid. Landlord shall have the exclusive right to conduct such contests, protests and appeals of the Taxes as Landlord shall determine is appropriate in Landlord's sole discretion.

5.9 Tenant's obligation with respect to Additional Rent and the payment of Tenant's Share of Operating Expenses and Tenant's Tax Share of Taxes shall survive the Expiration Date or Termination Date of this Lease.

ARTICLE 6.
SERVICES TO BE PROVIDED BY LANDLORD

6.1 Subject to Articles 5 and 10 herein, and provided Tenant is not in default under this Lease beyond any applicable notice and cure periods, Landlord agrees to furnish or cause to be furnished to the Premises the utilities and services described in the Standards for

Utilities and Services, attached hereto as Exhibit G, subject to the conditions and in accordance with the standards set forth herein.

6.2 Landlord shall not be liable for any loss or damage arising or alleged to arise in connection with the failure, stoppage, or interruption of any such services; nor shall the same be construed as an eviction of Tenant, work an abatement of Rent, entitle Tenant to any reduction in Rent, or relieve Tenant from the operation of any covenant or condition herein contained; it being further agreed that Landlord reserves the right to discontinue temporarily such services or any of them at such times as may be necessary by reason of repair or capital improvements performed within the Project, accident, unavailability of employees, repairs, alterations or improvements, or whenever by reason of strikes, lockouts, riots, acts of God, or any other happening or occurrence beyond the reasonable control of Landlord. In the event of any such failure, stoppage or interruption of services, Landlord shall use reasonable diligence to have the same restored. Neither diminution nor shutting off of light or air or both, nor any other effect on the Project by any structure erected or condition now or hereafter existing on lands adjacent to the Project, shall affect this Lease, abate Rent, or otherwise impose any liability on Landlord. However, notwithstanding the foregoing, if the Premises, or a material portion of the Premises, are made untenantable for a period in excess of seven (7) consecutive business days solely as a result of an interruption, diminishment or termination of any essential services that Landlord is obligated to provide pursuant to the terms of this Lease due to Landlord's gross negligence or willful misconduct and such interruption, diminishment or termination of services is otherwise reasonably within the control of Landlord to correct (a "Service Failure"), then Tenant, as its sole remedy, shall be entitled to receive an abatement of the Base Rent and Tenant's pro rata share of Operating Expenses and Taxes payable hereunder during the period beginning on the eighth (8^{th}) consecutive business day of the Service Failure and ending on the day the interrupted service has been restored. If the entire Premises have not been rendered untenantable by the Service Failure, the amount of abatement shall be equitably prorated.

6.3 Landlord shall have the right to reduce heating, cooling, or lighting within the Premises and in the public area in the Building as required by any mandatory fuel or energy-saving program.

6.4 Unless otherwise provided by Landlord, Tenant shall separately arrange with the applicable local public authorities or utilities, as the case may be, for the furnishing of and payment of all telephone and facsimile services as may be required by Tenant in the use of the Premises. Tenant shall directly pay for such telephone and facsimile services as may be required by Tenant in the use of the Premises, including the establishment and connection thereof, at the rates charged for such services by said authority or utility; and the failure of Tenant to obtain or to continue to receive such services for any reason whatsoever shall not relieve Tenant of any of its obligations under this Lease.

6.5 Landlord shall have the exclusive right, but not the obligation, to provide any locksmithing services, and Landlord shall also have the non-exclusive right, but not the obligation, to provide any additional services which may be required by Tenant, including without limitation additional repairs and maintenance, provided that Tenant shall pay to Landlord upon billing, the sum of all costs to Landlord of such additional services plus an administration

fee. If Tenant requests the Landlord provide locksmithing services and Landlord declines, then Tenant shall not be obligated to use Landlord's locksmithing services. Charges for any utilities or service for which Tenant is required to pay from time to time hereunder, shall be deemed Additional Rent hereunder and shall be billed on a monthly basis.

6.6 At all times during the Term Landlord shall have the right to select the utility company or companies that shall provide electric, telecommunication and/or other utility services to the Premises and, subject to all Applicable Requirements, Landlord shall have the right at any time and from time to time during the Term to either (a) contract for services from electric, telecommunication and/or other utility service provider(s) other than the provider with which Landlord has a contract as of the date of this Lease (the "Current Provider"), or (b) continue to contract for services from the Current Provider; provided that Landlord shall not unreasonably withhold its consent to a telecommunications provider selected by Tenant if the telecommunication services affect only the Premises, any agreement between Tenant and such telecommunications provider is terminable at will (and which agreement Tenant hereby agrees to terminate if reasonably requested by Landlord). Landlord shall have no obligations to such telecommunications provider or any other party either in connection with Tenant's agreement with such telecommunications provider or otherwise. The cost of such utility services and any energy management and procurements services in connection therewith shall be Operating Expenses.

ARTICLE 7.
REPAIRS AND MAINTENANCE BY LANDLORD

7.1 Landlord shall provide for the cleaning and maintenance of the public portions of the Project in keeping with the ordinary standard for Comparable Buildings as part of Operating Expenses. Unless otherwise expressly stipulated herein, Landlord shall not be required to make any improvements or repairs of any kind or character to the Premises during the Term, except such repairs as may be required to the exterior walls, corridors, windows, roof, integrated Building utility and mechanical systems and other Base Building (as defined below) elements and other structural elements and equipment of the Project, and subject to Section 12.4, below, such additional maintenance as may be necessary because of the damage caused by persons other than Tenant, its agents, employees, licensees, or invitees. As used in this Lease, the "Base Building" shall include the structural portions of the Building, and the public restrooms, elevators, exit stairwells and the systems and equipment located in the internal core of the Building on the floor or floors on which the Premises are located.

7.2 Landlord or Landlord's officers, agents, and representatives (subject to any security regulations imposed by any governmental authority) shall have the right to enter all parts of the Premises at all reasonable hours upon reasonable prior notice to Tenant (other than in an emergency) to inspect, clean, make repairs, alterations, and additions to the Project or the Premises which it may deem necessary or desirable, to make repairs to adjoining spaces, to cure any defaults of Tenant hereunder that Landlord elects to cure pursuant to Section 21.5, below, to show the Premises to prospective tenants (during the final nine (9) months of the Term or at any time after the occurrence of an Event of Default that remains uncured), mortgagees or purchasers of the Building, or to provide any service which it is obligated or elects to furnish to Tenant; and

Tenant shall not be entitled to any abatement or reduction of Rent by reason thereof. Landlord shall have the right to enter the Premises at any time and by any means in the case of an emergency.

7.3 Except as otherwise expressly provided in this Lease, Tenant hereby waives all rights it would otherwise have under California Civil Code Sections 1932(1) and 1942(a) or any successor statutes to deduct repair costs from Rent and/or terminate this Lease as the result of any failure by Landlord to maintain or repair.

ARTICLE 8.
REPAIRS AND CARE OF PROJECT BY TENANT

8.1 If the Building, the Project, or any portion thereof, including but not limited to, the elevators, boilers, engines, pipes, and other apparatus, or members of elements of the Building (or any of them) used for the purpose of climate control of the Building or operating of the elevators, or of the water pipes, drainage pipes, electric lighting, or other equipment of the Building or the roof or outside walls of the Building and also the Premises improvements, including but not limited to, the carpet, wall coverings, doors, and woodwork, become damaged or are destroyed through the negligence, carelessness, or misuse of Tenant, its servants, agents, employees, or anyone permitted by Tenant to be in the Building, or through it or them, then the reasonable cost of the necessary repairs, replacements, or alterations shall be borne by Tenant who shall pay the same to Landlord as Additional Rent within ten (10) days after demand, subject to Section 12.4 below. Landlord shall have the exclusive right, but not the obligation, to make any repairs necessitated by such damage.

8.2 Subject to Section 12.4 below, Tenant agrees, at its sole cost and expense, to repair or replace any damage or injury done to the Project, or any part thereof, caused by Tenant, Tenant's agents, employees, licensees, or invitees which Landlord elects not to repair. Tenant shall not injure the Project or the Premises and shall maintain the elements of the Premises not to be maintained by Landlord pursuant to this Lease in a clean, attractive condition and in good repair. If Tenant fails to keep such elements of the Premises in such good order, condition, and repair as required hereunder to the satisfaction of Landlord, and Tenant fails to commence, and thereafter diligently proceed to cure such failure within five (5) business days following Landlord's delivery to Tenant of written notice of the same, Landlord may restore the Premises to such good order and condition and make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's property or business by reason thereof, and within ten (10) days after completion thereof, Tenant shall pay to Landlord, as Additional Rent, upon demand, the cost of restoring the Premises to such good order and condition and of the making of such repairs, plus an additional charge of ten percent (10%) thereof. Tenant shall leave the Premises at the end of each business day in a reasonably tidy condition for the purpose of allowing the performance of Landlord's cleaning services. Upon the Expiration Date or the Termination Date, but subject to the terms of Section 15.2 hereof, Tenant shall surrender and deliver up the Premises to. Landlord in the same condition in which it existed at the Commencement Date, excepting only ordinary wear and tear and damage arising from any cause not required to be repaired by Tenant. Upon the Expiration Date or the Termination Date, Landlord shall have the right to re-enter and take possession of the Premises.

8.3 Tenant shall provide its own janitorial and cleaning services to the Premises at Tenant's sole cost and expense. Landlord is not obligated to provide any janitorial or cleaning services to the Premises.

ARTICLE 9.
TENANT'S EQUIPMENT AND INSTALLATIONS

9.1 If heat-generating machines or equipment, including telephone equipment, cause the temperature in the Premises, or any part thereof, to exceed the temperatures the Building's air conditioning system would be able to maintain in such Premises were it not for such heat-generating equipment, then if Tenant fails to promptly remedy the problem within ten (10) days after delivery to Tenant of written notice of the same, Landlord reserves the right to install supplementary air conditioning units in the Premises, and the cost thereof, including the cost of installation and the cost of operation and maintenance thereof, including water, shall be paid by Tenant to Landlord within ten (10) days after demand by Landlord.

9.2 Except for desktop computers, personal computers, servers, 3-D printers, soldering tools, curing ovens and typical office, research and development, light manufacturing and clean room equipment consistent with the permitted use described in Section 3.1 above, Tenant shall not install within the Premises any fixtures, equipment, facilities, or other improvements without the specific written consent of Landlord, subject to Article 14, below. Tenant shall not, without the specific written consent of Landlord (which consent shall not be unreasonably withheld, conditioned, or delayed), install or maintain any apparatus or device within the Premises which shall increase the usage of electrical power or water for the Premises to an amount greater than would be normally required for general office use for space of comparable size in the Market Area; and if any such apparatus or device is so installed, Tenant agrees to furnish Landlord a written agreement to pay for any additional costs of utilities as the result of said installation.

ARTICLE 10.
FORCE MAJEURE

10.1 It is understood and agreed that with respect to any service or other obligation to be furnished or obligations to be performed by either party, in no event shall either party be liable for failure to furnish or perform the same when prevented from doing so by strike, lockout, breakdown, accident, supply, or inability by the exercise of reasonable diligence to obtain supplies, parts, or employees necessary to furnish such service or meet such obligation; or because of war or other emergency; or for any cause beyond the reasonable control with the party obligated for such performance; or for any cause due to any act or omission of the other party or its agents, employees, licensees, invitees, or any persons claiming by, through, or under the other party; or because of the failure of any public utility to furnish services; or because of order or regulation of any federal, state, county or municipal authority (collectively, "Force Majeure Events"). Nothing in this Section 10.1 shall limit or otherwise modify or waive Tenant's obligation to pay Base Rent and Additional Rent as and when due pursuant to the terms of this Lease.

ARTICLE 11.
CONSTRUCTION, MECHANICS' AND MATERIALMAN'S LIENS

11.1 Tenant shall not suffer or permit any construction, mechanics' or materialman's lien to be filed against the Premises or any portion of the Project by reason of work, labor services, or materials supplied or claimed to have been supplied to Tenant. Nothing herein contained shall be deemed or construed in any way as constituting the consent or request of Landlord, expressed or implied, by inference or otherwise, for any contractor, subcontractor, laborer, or materialman to perform any labor or to furnish any materials or to make any specific improvement, alteration, or repair of or to the Premises or any portion of the Project; nor of giving Tenant any right, power, or authority to contract for, or permit the rendering of, any services or the furnishing of any materials that could give rise to the filing of any construction, mechanics' or materialman's lien against the Premises or any portion of the Project.

11.2 If any such construction, mechanics' or materialman's lien shall at any time be filed against the Premises or any portion of the Project as the result of any act or omission of Tenant, Tenant covenants that it shall, within twenty (20) days after Tenant has notice of the claim for lien, procure the discharge thereof by payment or by giving security or in such other manner as is or may be required or permitted by law or which shall otherwise satisfy Landlord. If Tenant fails to take such action, Landlord, in addition to any other right or remedy it may have, may take such action as may be reasonably necessary to protect its interests. Any amounts paid by Landlord in connection with such action, all other expenses of Landlord incurred in connection therewith, including reasonable attorneys' fees, court costs, and other necessary disbursements shall be repaid by Tenant to Landlord within ten (10) days after demand.

ARTICLE 12.
INSURANCE

12.1 Landlord shall maintain, as a part of Operating Expenses, special causes of loss form insurance on the Project in an amount equal to the full replacement cost of the Project, subject to such deductibles as Landlord may determine. Landlord shall not be obligated to insure, and shall not assume any liability of risk of loss for, any of Tenant's furniture, equipment, machinery, goods, supplies, improvements or alterations upon the Premises. Such insurance shall be maintained with an insurance company selected, and in amounts desired, by Landlord or Landlord's mortgagee, and payment for losses thereunder shall be made solely to Landlord subject to the rights of the holder of any mortgage or deed of trust which may now or hereafter encumber the Project. Additionally Landlord may maintain such additional insurance, including, without limitation, earthquake insurance, flood insurance, liability insurance and/or rent insurance, as Landlord may in its sole discretion elect. The cost of all such additional insurance shall also be part of the Operating Expenses. Any or all of Landlord's insurance may be provided by blanket coverage maintained by Landlord or any affiliate of Landlord under its insurance program for its portfolio of properties or by Landlord or any affiliate of Landlord's program of self-insurance, and in such event Operating Expenses shall include the portion of the reasonable cost of blanket insurance or self-insurance that is allocated to the Project.

12.2 Tenant, at its own expense, shall maintain with insurers authorized to do business in the State of California and which are rated A- and have a financial size category of at least VIII in the most recent Best's Key Rating Guide, or any successor thereto (or if there is none, an organization having a national reputation), (a) commercial general liability insurance with the following minimum limits: General Aggregate $2,000,000.00; Products/Completed Operations Aggregate $2,000,000.00; Each Occurrence $1,000,000.00; Personal and Advertising Injury $1,000,000.00; Medical Payments $5,000.00 per person, (b) Umbrella/Excess Liability on a following form basis with the following minimum limits: General Aggregate $1,000,000.00; Each Occurrence $1,000,000.00; (c) Workers' Compensation with statutory limits; (d) Employer's Liability insurance with the following limits: Bodily injury by disease per person $500,000.00; Bodily injury by accident policy limit $500,000.00; Bodily injury by disease policy limit $1,000,000.00; (e) property insurance on special causes of loss insurance form covering any and all personal property of Tenant including but not limited to alterations, improvements (inclusive of the initial improvements (if any) constructed pursuant to Exhibit C), betterments, furniture, fixtures and equipment in an amount not less than their full replacement cost, with a deductible not to exceed $25,000.00; and (f) if applicable, business auto liability insurance having a combined single limit of not less than One Million Dollars ($1,000,000.00) per occurrence and insuring Tenant against liability for claims arising out of ownership, maintenance or use of any owned, hired or non-owned automobiles. At all times during the Term, such insurance shall be maintained, and Tenant shall cause a current and valid certificate of such policies to be deposited with Landlord. If Tenant fails to have a current and valid certificate of such policies on deposit with Landlord at all times during the Term and such failure is not cured within three (3) business days following Tenant's receipt of notice thereof from Landlord, Landlord shall have the right, but not the obligation, to obtain such an insurance policy, and Tenant shall be obligated to pay Landlord the amount of the premiums applicable to such insurance within ten (10) days after Tenant's receipt of Landlord's request for payment thereof. Said policy of liability insurance shall name Landlord and Landlord's managing agent as additional insureds and Tenant as the insured. Tenant shall provide to Landlord no less than thirty (30) days' prior written notice of any material adverse change or cancellation in the insurance coverages required to be carried by Tenant hereunder (except in the event of cancellation due to non-payment of premium, in which event ten (10) days prior written notice shall apply).

12.3 Tenant shall adjust annually the amount of coverage established in Section 12.2 hereof to such amount as in Landlord's reasonable opinion, adequately protects Landlord's interest; provided the same is consistent with the amount of coverage customarily required of comparable tenants in Comparable Buildings.

12.4 Notwithstanding anything in this Lease to the contrary, Landlord and Tenant each hereby waives any and all rights of recovery, claim, action, or cause of action against the other, its agents, employees, licensees, or invitees for any loss or damage to or at the Premises or the Project or any personal property of such party therein or thereon by reason of fire, the elements, or any other cause which would be insured against under the terms of (i) fire and extended coverage insurance or (ii) the liability insurance referred to in Section 12.2, to the extent of such insurance, regardless of cause or origin, including omission of the other party

hereto, its agents, employees, licensees, or invitees. Landlord and Tenant covenant that no insurer shall hold any right of subrogation against either of such parties with respect thereto. This waiver shall be ineffective against any insurer of Landlord or Tenant to the extent that such waiver is prohibited by the laws and insurance regulations of the State of California. The parties hereto agree that any and all such insurance policies required to be carried by either shall be endorsed with a subrogation clause, substantially as follows: "This insurance shall not be invalidated should the insured waive, in writing prior to a loss, any and all right of recovery against any party for loss occurring to the property described therein," and shall provide that such party's insurer waives any right of recovery against the other party in connection with any such loss or damage.

12.5 In the event Tenant's occupancy or conduct of business in or on the Premises, whether or not Landlord has consented to the same, results in any increase in premiums for the insurance carried from time to time by Landlord with respect to the Building, Tenant shall pay any such increase in premiums as Rent within ten (10) days after bills for such additional premiums shall be rendered by Landlord. In determining whether increased premiums are a result of Tenant's use or occupancy of the Premises, a schedule issued by the organization computing the insurance rate on the Building showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up such rate. Tenant shall promptly comply with all reasonable requirements of the insurance authority or of any insurer now or hereafter in effect relating to the Premises.

ARTICLE 13.
QUIET ENJOYMENT

13.1 Provided Tenant is not in default under this Lease after the expiration of any period for cure in the performance of all its obligations under this Lease, including, but not limited to, the payment of Rent and all other sums due hereunder, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term, without hindrance by Landlord, subject to the provisions and conditions set forth in this Lease.

ARTICLE 14.
ALTERATIONS

14.1 Tenant agrees that it shall not make or allow to be made any alterations, physical additions, or improvements in or to the Premises without first obtaining the written consent of Landlord in each instance. As used herein, the term "Minor Alteration" refers to an alteration that (a) does not affect the outside appearance of the Building and is not visible from the Common Areas, (b) is non-structural and does not impair the strength or structural integrity of the Building, and (c) does not affect the mechanical, electrical, HVAC or other systems of the Building. Landlord agrees not to unreasonably withhold, condition or delay its consent to any Minor Alteration. Landlord's consent to any other alteration may be conditioned, given, or withheld in Landlord's commercially reasonable discretion. Notwithstanding the foregoing, Landlord consents to any repainting, recarpeting, or other purely cosmetic changes or upgrades to the Premises, so long as (i) the aggregate cost of such work is less than $10,000.00 in any twelve-month period, (ii) such work constitutes a Minor Alteration (iii) no building permit is required in connection therewith, and (iv) such work conforms to the then existing Building

standards. At the time of said request, Tenant shall submit to Landlord plans and specifications of the proposed alterations, additions, or improvements; and Landlord shall have a period of not less than fifteen (15) business days therefrom in which to review and approve or disapprove said plans; provided that if Landlord determines in good faith that Landlord requires a third party to assist in reviewing such plans and specifications, Landlord shall instead have a period of not less than forty-five (45) days in which to review and approve or disapprove said plans. Tenant shall pay to Landlord upon demand the reasonable cost and expense of Landlord in (A) reviewing said plans and specifications, and (B) inspecting the alterations, additions, or improvements to determine whether the same are being performed in accordance with the approved plans and specifications and all laws and requirements of public authorities, including, without limitation, the fees of any architect or engineer employed by Landlord for such purpose. In any instance where Landlord grants such consent, and permits Tenant to use its own contractors, laborers, materialmen, and others furnishing labor or materials for Tenant's construction (collectively, "Tenant's Contractors"), Landlord's consent shall be deemed conditioned upon each of Tenant's Contractors (1) working in harmony and not interfering with any laborer utilized by Landlord, Landlord's contractors, laborers, or materialmen; and (2) furnishing Landlord with evidence of acceptable liability insurance, worker's compensation coverage and if required by Landlord, completion bonding, and if at any time such entry by one or more persons furnishing labor or materials for Tenant's work shall cause such disharmony or interference, the consent granted by Landlord to Tenant may be withdrawn immediately upon written notice from Landlord to Tenant. Tenant, at its expense, shall obtain all necessary governmental permits and certificates for the commencement and prosecution of alterations, additions, or improvements and for final approval thereof upon completion, and shall cause any alterations, additions, or improvements to be performed in compliance therewith and with all applicable laws and requirements of public authorities and with all applicable requirements of insurance bodies. All alterations, additions, or improvements shall be diligently performed in a good and workmanlike manner, using new materials and equipment at least equal in quality and class to be better than (a) the original installations of the Building, or (b) the then standards for the Comparable Building. Upon the completion of work and upon request by Landlord, Tenant shall provide Landlord copies of all waivers or releases of lien from each of Tenant's Contractors. Tenant shall not be entitled to any reimbursement or compensation resulting from its payment of the cost of constructing all or any portion of said improvements or modifications thereto unless otherwise expressly agreed by Landlord in writing. Tenant agrees specifically that no food, soft drink, or other vending machine shall be installed within the Premises, without the prior written consent of Landlord.

14.2 Landlord's approval of Tenant's plans for work shall create no responsibility or liability on the part of Landlord for their completeness, design sufficiency, or compliance with all laws, rules, and regulations of governmental agencies or authorities, including, but not limited to, the Americans with Disabilities Act. Landlord may, at its option, at Tenant's expense, require that Landlord's normally retained contractors be engaged for any work upon the integrated Building mechanical, structural, or electrical systems or for any work that is visible from the exterior of the Building.

14.3 At least five (5) days prior to the commencement of any work permitted to be done by persons requested by Tenant on the Premises, Tenant shall notify Landlord of the

proposed work and the names and addresses of Tenant's Contractors. During any such work on the Premises, Landlord, or its representatives, shall have the right to go upon and inspect the Premises at all reasonable times, and shall have the right to post and keep posted thereon notices of non-responsibility or to take any further action which Landlord may deem to be proper for the protection of Landlord's interest in the Premises.

ARTICLE 15.
FURNITURE, FIXTURES, AND PERSONAL PROPERTY

15.1 Tenant, at its sole cost and expense, may remove its trade fixtures, office supplies and moveable office furniture and equipment not attached to the Project or Premises provided:

(a) Such removal is made prior to the Expiration Date or the Termination Date;

(b) No Event of Default exists under this Lease at the time of such removal; and

(c) Tenant promptly repairs all damage caused by such removal.

15.2 If Tenant does not remove its trade fixtures, office supplies, and moveable furniture and equipment as herein above provided prior to the Expiration Date or the Termination Date (unless prior arrangements have been made with Landlord and Landlord has agreed in writing to permit Tenant to leave such items in the Premises for an agreed period), then, in addition to its other remedies, at law or in equity, Landlord shall have the right to have such items removed and stored at Tenant's sole cost and expense and all damage to the Project or the Premises resulting from said removal shall be repaired at the cost of Tenant; Landlord may elect that such items automatically become the property of Landlord upon the Expiration Date or the Termination Date, and Tenant shall not have any further rights with respect thereto or reimbursement therefor subject to the provisions of applicable law. All other property in the Premises, any alterations, or additions to the Premises (including wall-to-wall carpeting, paneling, wall covering, specially constructed or built-in cabinetry or bookcases), and any other article attached or affixed to the floor, wall, or ceiling of the Premises shall become the property of Landlord and shall remain upon and be surrendered with the Premises as a part thereof at the Expiration or Termination Date regardless of who paid therefor; and Tenant hereby waives all rights to any payment or compensation therefor. No alterations, modifications, or additions to the Project or the Premises shall be removed by Tenant either during the Term or upon the Expiration Date or the Termination Date without the express written approval or request of Landlord. If, however, but subject to the terms of this Section 15.2, Landlord so requests, in writing, Tenant shall remove, prior to the Expiration Date or the Termination Date, any and all alterations or additions installed in the Premises by or on behalf of Tenant, including any portion of the Landlord Work, and shall repair any damage caused by such removal. If Tenant fails to remove such alterations or additions in accordance with the foregoing, then, in addition to its other remedies, at law or in equity, Landlord shall have the right to have such alterations and additional removed and stored at Tenant's sole cost and expense and all damage to the Project or the Premises resulting from said removal shall be repaired at the cost of Tenant.

Notwithstanding the foregoing, Tenant shall not be required to remove prior to the Expiration Date or the Termination Date any portion of the Landlord Work comprising any usual office improvements for a general, standard office use (excluding cable) such as Building standard gypsum board, partitions, ceiling grids and tiles, fluorescent lighting panels, Building standard doors and non-glued down carpeting. In addition, if any alterations performed by Tenant do not use materials that conform to the building standards used by Landlord at the time of the particular alteration or if Tenant requests any initial improvements to the Premises pursuant to Exhibit C, if any, that use materials that do not conform to the building standards used by Landlord at the time of that work, Tenant shall at Tenant's sole cost and expense, no later than the expiration of the Term (or no later than fifteen (15) days after the earlier termination of the Term) cause the improvements in the Premises to be restored to conform to Landlord's building standard at Tenant's sole cost and expense. Notwithstanding anything to the contrary contained herein, so long as Tenant's written request for consent for a proposed alteration, improvement or addition substantially contains the following language "**PURSUANT TO SECTION 15.2 OF THE LEASE, IF LANDLORD CONSENTS TO THE SUBJECT ALTERATION, IMPROVEMENT OR ADDITION, LANDLORD SHALL NOTIFY TENANT IN WRITING (1) WHETHER OR NOT LANDLORD WILL REQUIRE SUCH ALTERATION, IMPROVEMENT OR ADDITION TO BE REMOVED AT THE EXPIRATION OR EARLIER TERMINATION OF THE LEASE AND, (2) IF SUCH REMOVAL IS REQUIRED, WHETHER OR NOT TENANT SHALL BE REQUIRED TO DEPOSIT WITH LANDLORD THE AMOUNT REASONABLY ESTIMATED BY LANDLORD AS SUFFICIENT TO COVER THE COST OF REMOVING SUCH ALTERATIONS, IMPROVEMENTS OR ADDITIONS AND RESTORING THE PREMISES AND, IF SO, SUCH ESTIMATED AMOUNT**.", at the time Landlord gives its consent for any alterations, improvements or additions, if it so does, Tenant shall also be notified whether or not Landlord will require that such alterations, improvements or additions be removed upon the expiration or earlier termination of this Lease. If Tenant's written notice strictly complies with the foregoing and if Landlord fails to notify Tenant within twenty (20) days of Landlord's receipt of such notice whether (1) Landlord consents to the proposed alteration or improvement and (2) Tenant shall be required to remove the subject alterations or improvements at the expiration or earlier termination of this Lease, Tenant may, within fifteen (15) days following the expiration of the twenty (20) day period described above, provide to Landlord a second written notice (the "Second Notice") in compliance with the foregoing requirements but also substantially containing the following language: "**THIS IS TENANT'S SECOND NOTICE TO LANDLORD. LANDLORD FAILED TO RESPOND TO TENANT'S FIRST NOTICE IN ACCORDANCE WITH THE TERMS OF SECTION 15.2 OF THE LEASE. IF LANDLORD FAILS TO RESPOND TO THIS NOTICE IN FIVE (5) BUSINESS DAYS WITH RESPECT TO TENANT'S OBLIGATION TO REMOVE THE SUBJECT ALTERATION AND THE ESTIMATED REMOVAL COST IS LESS THAN $20,000.00, TENANT SHALL HAVE NO OBLIGATION TO REMOVE THE SUBJECT ALTERATION AT THE EXPIRATION OR EARLIER TERMINATION OF THE LEASE**". If (a) Tenant's second written notice strictly complies with the terms of this Section 15.2, (b) Landlord fails to notify Tenant within five (5) business days of Landlord's receipt of such second written notice, and (c) the estimated removal costs associated with the subject alterations or improvements is less than $20,000.00, it shall be assumed that Landlord

shall not require the removal of the subject alterations or improvements at the expiration or earlier termination of this Lease. Notwithstanding anything to the contrary contained herein, upon the expiration or earlier termination of this Lease, Tenant shall restore the "clean room" created as part of the Landlord's Work to office space reasonably acceptable to Landlord and otherwise in accordance with Tenant's surrender and restoration obligations under this Lease.

15.3 All the furnishings, fixtures, equipment, effects, and property of every kind, nature, and description of Tenant and of all persons claiming by, through, or under Tenant which, during the continuance of this Lease or any occupancy of the Premises by Tenant or anyone claiming under Tenant, may be on the Premises or elsewhere in the Project shall be at the sole risk and hazard of Tenant, and if the whole or any part thereof shall be destroyed or damaged by fire, water, or otherwise, or by the leakage or bursting of water pipes, steam pipes, or other pipes, by theft, or from any other cause, no part of said loss or damage is to be charged to or be borne by Landlord unless due to the gross negligence or willful misconduct of Landlord or its employees, agents or contractors.

ARTICLE 16.
PERSONAL PROPERTY AND OTHER TAXES

16.1 During the Term hereof, Tenant shall pay, prior to delinquency, all business and other taxes, charges, notes, duties, and assessments levied, and rates or fees imposed, charged, or assessed against or in respect of Tenant's occupancy of the Premises or in respect of the personal property, trade fixtures, furnishings, equipment, and all other personal and other property of Tenant contained in the Project (including without limitation taxes and assessments attributable to the cost or value of any leasehold improvements made in or to the Premises by or for Tenant (to the extent that the assessed value of those leasehold improvements exceeds the assessed value of standard office improvements in other space in the Project regardless of whether title to those improvements is vested in Tenant or Landlord)), and shall hold Landlord harmless from and against all payment of such taxes, charges, notes, duties, assessments, rates, and fees, and against all loss, costs, charges, notes, duties, assessments, rates, and fees, and any and all such taxes. Tenant shall cause said fixtures, furnishings, equipment, and other personal property to be assessed and billed separately from the real and personal property of Landlord. In the event any or all of Tenant's fixtures, furnishings, equipment, and other personal property shall be assessed and taxed with Landlord's real property, Tenant shall pay to Landlord Tenant's share of such taxes within ten (10) days after delivery to Tenant by Landlord of a statement in writing setting forth the amount of such taxes applicable to Tenant's property.

16.2 The demised property herein may be subject to a special assessment levied by the City of Redwood as part of an Improvement District. As a part of said special assessment proceedings (if any), additional bonds were or may be sold and assessments were or may be levied to provide for construction contingencies and reserve funds. Interest shall be earned on such funds created for contingencies and on reserve funds which will be credited for the benefit of said assessment district. To the extent surpluses are created in said district through unused contingency funds, interest earnings or reserve funds, such surpluses shall be deemed the property of Landlord. Notwithstanding that such surpluses may be credited on assessments

otherwise due against the Premises, Tenant shall pay to Landlord, as Additional Rent if, and at the time of any such credit of surpluses, an amount equal to all such surpluses so credited. For example: if (i) the property is subject to an annual assessment of $1,000.00, and (ii) a surplus of $200.00 is credited towards the current year's assessment which reduces the assessment amount shown on the property tax bill from $1,000.00 to $800.00, Tenant shall, upon receipt of notice from Landlord, pay to Landlord said $200.00 credit as Additional Rent.

ARTICLE 17.
ASSIGNMENT AND SUBLETTING

17.1 Subject to the terms of Section 17.8 below, Tenant shall not, without the prior written consent of Landlord, which consent shall not be unreasonably withheld (except that Landlord shall in no event be obligated to consent to an encumbrance of this Lease or any transfer by operation of law): (a) assign, convey, mortgage or otherwise transfer this Lease or any interest hereunder, or sublease the Premises, or any part thereof, whether voluntarily or by operation of law; or (b) permit the use of the Premises or any part thereof by any person other than Tenant and its employees. Any such transfer, sublease or use described in the preceding sentence (a "Transfer") occurring without the prior written consent of Landlord shall, at Landlord's option, be void and of no effect. Landlord's consent to any Transfer shall not constitute a waiver of Landlord's right to withhold its consent to any future Transfer. Landlord may require as a condition to its consent to any assignment of this Lease that the assignee execute an instrument in which such assignee assumes the remaining obligations of Tenant hereunder; provided that the acceptance of any assignment of this Lease by the applicable assignee shall automatically constitute the assumption by such assignee of all of the remaining obligations of Tenant that accrue following such assignment. The voluntary or other surrender of this Lease by Tenant or a mutual cancellation hereof shall not work a merger and shall, at the option of Landlord, terminate all or any existing sublease or may, at the option of Landlord, operate as an assignment to Landlord of Tenant's interest in any or all such subleases.

17.2 Subject to the terms of Section 17.8 below, for purposes of this Lease, the term "Transfer" shall also include (i) if a Tenant is a partnership or limited liability company, the withdrawal or change, voluntary, involuntary or by operation of law, of fifty percent (50%) or more of the partners, members or managers thereof, or transfer of twenty-five percent (25%) or more of partnership or membership interests therein within a twelve (12) month period, or the dissolution of the partnership or the limited liability company without immediate reconstitution thereof, and (ii) if Tenant is a corporation whose stock is not publicly held and not traded through an exchange or over the counter or any other form of entity, (A) the dissolution, merger, consolidation or other reorganization of Tenant, the sale or other transfer of more than an aggregate of fifty percent (50%) of the voting shares or other interests of or in Tenant (other than to immediate family members by reason of gift or death), within a twelve (12) month period, or (B) the sale, mortgage, hypothecation or pledge of more than an aggregate of fifty percent (50%) of the value of the unencumbered assets of Tenant within a twelve (12) month period.

17.3 If Tenant desires the consent of Landlord to a Transfer, Tenant shall submit to Landlord, at least thirty (30) business days prior to the proposed effective date of the Transfer, a written notice (the "Transfer Notice") which includes (a) the name of the proposed

sublessee or assignee, (b) the nature of the proposed sublessee's or assignee's business, (c) the terms and provisions of the proposed sublease or assignment, and (d) current financial statements and information on the proposed sublessee or assignee. Upon receipt of the Transfer Notice, Landlord may request additional information concerning the Transfer or the proposed sublessee or assignee (the "Additional Information"). Subject to Landlord's rights under Section 17.6, Landlord shall not unreasonably withhold its consent to any assignment or sublease (excluding an encumbrance or transfer by operation of law), which consent or lack thereof shall be provided within thirty (30) business days of receipt of Tenant's Transfer Notice; provided, however, Tenant hereby agrees that it shall be a reasonable basis for Landlord to withhold its consent if Landlord has not received the Additional Information requested by Landlord. Without limiting any other reasonable basis for Landlord to withhold its consent to the proposed Transfer, Landlord and Tenant agree that for purposes of this Lease and any Applicable Law, Landlord shall not be deemed to have unreasonably withheld its consent if, in the judgment of Landlord: (i) the transferee is of a character or engaged in a business which is not in keeping with the standards or criteria used by Landlord in leasing the Project, or the general character or quality of the Project; (ii) the financial condition of the transferee is such that it may not be able to perform its obligations in connection with this Lease (or otherwise does not satisfy Landlord's standards for financial standing with respect to tenants under direct leases of comparable economic scope); (iii) the transferee, or any person or entity which directly or indirectly controls, is controlled by, or is under common control with, the transferee, is a tenant of or negotiating for space in the Project occupies space in the Project or has negotiated with Landlord within the preceding one hundred eighty (180) days (or is currently negotiating with Landlord) to lease space in the Project (unless Landlord does not have space available for lease in the Project that is comparable to the space Tenant desires to sublet or assign. Landlord shall be deemed to have comparable space if it has, or will have, space available on any floor of the Project that is approximately the same size as the space Tenant desires to sublet or assign within four (4) months, in the aggregate, of the proposed commencement of the proposed sublease or assignment, and for a comparable term); (iv) the transferee has the power of eminent domain, is a governmental agency or an agency or subdivision of a foreign government; (v) an Event of Default by Tenant has occurred and is uncured at the time Tenant delivers the Transfer Notice to Landlord; (vi) in the judgment of Landlord, such a Transfer would violate any term, condition, covenant, or agreement of Landlord involving the Project or any other tenant's lease within it or would give an occupant of the Project a right to cancel or modify its lease; (vii) in Landlord's judgment, the use of the Premises by the proposed transferee would not be comparable to the types of office use by other tenants in the Project, would entail any alterations which would lessen the value of the tenant improvements in the Premises, would result in more than a reasonable density of occupants per square foot of the Premises, would increase the burden on elevators or other Building systems or equipment over the burden thereon prior to the proposed Transfer, would require increased services by Landlord or would require any alterations to the Project to comply with applicable laws; (viii) the transferee intends to use the space for purposes which are not permitted under this Lease; (ix) the terms of the proposed Transfer would allow the transferee to exercise a right of renewal, right of expansion, right of first offer, or other similar right held by Tenant (or will allow the transferee to occupy space leased by Tenant pursuant to any such right); (x) the proposed Transfer would result in more than three subleases per each full floor of the Premises being in effect at any one time during the Term; (xi) any ground lessor or mortgagee whose

consent to such Transfer is required fails to consent thereto. Tenant hereby waives any right to terminate the Lease and/or recover damages as remedies for Landlord wrongfully withholding its consent to any Transfer and agrees that Tenant's sole and exclusive remedy therefor shall be to seek specific performance of Landlord's obligation to consent to such Transfer. Tenant shall use commercially reasonable efforts to maximize rent charged by Tenant to any transferee during the term of such Transfer.

17.4 Landlord and Tenant agree that, in the event of any approved assignment or subletting, the rights of any such assignee or sublessee of Tenant herein shall be subject to all of the terms, conditions, and provisions of this Lease, including, without limitation, restriction on use, assignment, and subletting and the covenant to pay Rent. Landlord may collect the rent owing by the assignee or sublessee directly from such assignee or sublessee and apply the amount so collected to the Rent herein reserved. No such consent to or recognition of any such assignment or subletting shall constitute a release of Tenant or any guarantor of Tenant's performance hereunder from further performance by Tenant or such guarantor of covenants undertaken to be performed by Tenant herein. Tenant and any such guarantor shall remain liable and responsible for all Rent and other obligations herein imposed upon Tenant, and Landlord may condition its consent to any Transfer upon the receipt of a written reaffirmation from each such guarantor in a form acceptable to Landlord (which shall not be construed to imply that the occurrence of a Transfer without such a reaffirmation would operate to release any guarantor). Consent by Landlord to a particular assignment, sublease, or other transaction shall not be deemed a consent to any other or subsequent transaction. In any case where Tenant desires to assign, sublease or enter into any related or similar transaction, whether or not Landlord consents to such assignment, sublease, or other transaction, Tenant shall pay any reasonable attorneys' fees incurred by Landlord in connection with such assignment, sublease or other transaction, including, without limitation, fees incurred in reviewing documents relating to, or evidencing, said assignment, sublease, or other transaction. Notwithstanding the foregoing, provided that neither the Tenant nor the proposed sublessee, assignee, licensee, or other transferee requests any changes to this Lease or Landlord's standard form of consent (other than minor and immaterial changes) in connection with the proposed assignment, sublease or other transaction, the attorneys' fees payable by Tenant pursuant to this Section 17.4 shall not exceed $1,500.00 for such proposed assignment, sublease or other transaction. All documents utilized by Tenant to evidence any subletting or assignment for which Landlord's consent has been requested and is required hereunder, shall be subject to prior approval (not to be unreasonably withheld, conditioned or delayed) by Landlord or its attorney.

17.5 Tenant shall be bound and obligated to pay Landlord a portion of any sums or economic consideration payable to Tenant by any sublessee, assignee, licensee, or other transferee, within ten (10) days following receipt thereof by Tenant from such sublessee, assignee, licensee, or other transferee, as the case might be, as follows:

(a) Except in connection with a transfer permitted under Section 17.8 below, in the case of an assignment, fifty percent (50%) of any sums or other economic consideration received by Tenant as a result of such assignment shall be paid to Landlord after first deducting the unamortized cost of reasonable leasehold improvements paid for by Tenant in

connection with such assignment and reasonable cost of any legal fees and real estate commissions incurred by Tenant in connection with such assignment.

(b) In the case of a subletting, fifty percent (50%) of any sums or economic consideration received by Tenant as a result of such subletting shall be paid to Landlord after first deducting (i) the Rent due hereunder prorated to reflect only Rent allocable to the sublet portion of the Premises, (ii) the reasonable cost of tenant improvements made to the sublet portion of the Premises by Tenant for the specific benefit of the sublessee, which shall be amortized over the term of the sublease, and (iii) the reasonable cost of any legal fees and real estate commissions incurred by Tenant in connection with such subletting, which shall be amortized over the term of the sublease.

(c) Tenant shall provide Landlord with a detailed statement setting forth any sums or economic consideration Tenant either has or will derive from such Transfer, the deductions permitted under (a) and (b) of this Section 17.5, and the calculation of the amounts due Landlord under this Section 17.5. In addition, Landlord or its representative shall have the right at all reasonable times to audit the books and records of Tenant with respect to the calculation of the Transfer profits. If such inspection reveals that the amount paid to Landlord was incorrect, then within ten (10) days of Tenant's receipt of the results of such audit, Tenant shall pay Landlord the deficiency and, in the event any sums or economic consideration is understated by more than five percent (5%), Tenant shall pay the cost of Landlord's audit.

(d) If this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. Section 101 et seq. or any successor or substitute therefor (the "Bankruptcy Code"), any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be and remain the exclusive property of Landlord, and shall not constitute property of Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any such monies or other consideration not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and shall be promptly paid or delivered to Landlord. Any person or entity to whom this Lease is so assigned shall be deemed, without further act or deed, to have assumed all of the remaining obligations arising under this Lease as of the date of such assignment. Any such assignee shall, upon demand therefor, execute and deliver to Landlord an instrument confirming such assumption.

17.6 Landlord shall have the following option with respect to any assignment or subletting proposed by Tenant:

(a) Except in connection with a transfer permitted under Section 17.8 below and notwithstanding any other provision of this Article, Landlord has the option, by written notice to Tenant (the "Recapture Notice") within fifteen (15) business days after receiving any Transfer Notice to recapture the Space covered by the proposed sublease or the entire Premises in the case of an assignment (the "Subject Space") by terminating this Lease for the Subject Space or taking an assignment or a sublease of the Subject Space from Tenant. A timely Recapture Notice terminates this Lease or creates an assignment or a sublease for the Subject Space for the same term as the proposed Transfer, effective as of the date specified in the

Transfer Notice. After such termination, Landlord may (but shall not be obligated to) enter into a lease with the party to the sublease or assignment proposed by Tenant.

(b) To determine the new Base Rent under this Lease in the event Landlord recaptures the Subject Space without terminating this Lease, the original Base Rent under the Lease shall be multiplied by a fraction, the numerator of which is the rentable square feet of the Premises retained by Tenant after Landlord's recapture and the denominator of which is the total rentable square feet in the Premises before Landlord's recapture. The Additional Rent, to the extent that it is calculated on the basis of the rentable square feet within the Premises, shall be reduced to reflect Tenant's proportionate share based on the rentable square feet of the Premises retained by Tenant after Landlord's recapture. This Lease as so amended shall continue thereafter in full force and affect. Either party may require a written confirmation of the amendments to this Lease necessitated by Landlord's recapture of the Subject Space. If Landlord recaptures the Subject Space, Landlord shall, at Landlord's sole expense, construct any partitions required to segregate the Subject Space from the remaining Premises retained by Tenant. Tenant shall, however, pay for painting, covering or otherwise decorating the surfaces of the partitions facing the remaining Premises retained by Tenant.

17.7 Notwithstanding anything to the contrary contained in this Article 17, Tenant may assign this Lease or sublet the Premises without the need for Landlord's prior consent if such assignment or sublease is to (a) any parent, subsidiary or affiliate business entity which the initially named Tenant controls, is controlled by or is under common control with (each, an "Affiliate") or (b) a successor to Tenant by purchase, merger, consolidation or reorganization (any such assignee or sublessee a "Permitted Transferee"), provided that: (i) at least thirty (30) days prior to such assignment or sublease, Tenant delivers to Landlord the financial statements or other financial and background information of the assignee or sublessee as required for other transfers (provided that, if prohibited by confidentiality in connection with a proposed purchase, merger, consolidation or reorganization, then Tenant shall give Landlord written notice within ten (10) days after the effective date of the proposed purchase, merger, consolidation or reorganization); (ii) if the transfer is an assignment, the assignee assumes, in full, the obligations of Tenant under this Lease; (iii) Tenant remains fully liable under this Lease; (iv) unless Landlord consents to the same, the use of the Premises set forth herein remains unchanged (v) with respect to an assignment or sublease to an Affiliate, the financial audited net worth of the assignee or sublessee as of the time of the proposed transfer is sufficient for such assignee or sublessee to fulfill its obligations pursuant to such assignment or sublease (including its obligation to pay Rent), as determined by Landlord; and (vi) with respect to a purchase, merger, consolidation or reorganization or any assignment which results in Tenant ceasing to exist as a separate legal entity, (A) Tenant's successor shall own all or substantially all of the assets of Tenant, and (B) Tenant's successor shall have a net worth which is at least equal to the greater of Tenant's net worth at the date of this Lease or Tenant's net worth as of the day prior to the proposed purchase, merger, consolidation or reorganization. As used in this Section, "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies through ownership of at least fifty-one (51 %) of the securities or partnership or other ownership interests of the entity subject to control. In addition,

notwithstanding anything to the contrary contained in this Lease, Tenant may assign this Lease or sublet the Premises, or any portion thereof, without Landlord's consent to any entity which results from a merger of, reincorporation of, reorganization of, or consolidation with Tenant; or to any entity which acquires substantially all of the memberships, interests, shares, stock or assets of Tenant, as a going concern, with respect to the business that is being conducted in the Premises (each also a "Permitted Transfer"). In addition, a sale or transfer of the memberships, interests, shares, or stock of Tenant shall be deemed a Permitted Transfer if such sale or transfer occurs in connection with any *bona fide* financing or capitalization for the benefit of Tenant. Landlord shall have no right to terminate the Lease in connection with, and, except with respect to a sublease, shall have no right to any sums or other economic consideration resulting from, any Permitted Transfer.

ARTICLE 18.
DAMAGE OR DESTRUCTION

18.1 Casualty. If the Premises or Building should be damaged or destroyed by fire or other casualty, Tenant shall give immediate written notice to Landlord. Within thirty (30) days after receipt from Tenant of such written notice, Landlord shall notify Tenant whether the necessary repairs can reasonably be made: (a) within ninety (90) days; (b) in more than ninety (90) days but in less than one hundred eighty (180) days; or (c) in more than one hundred eighty (180) days, in each case after the date of the casualty.

(a) Less Than 90 Days. If the Premises or Building should be damaged only to such extent that rebuilding or repairs can reasonably be completed within ninety (90) days following the date of the casualty, this Lease shall not terminate and, provided that insurance proceeds are available to pay for the full repair of all damage, Landlord shall repair the Premises or Building, except that Landlord shall not be required to rebuild, repair or replace Tenant's furniture, fixtures, furnishings, or equipment (collectively, "Tenant's Property") which may have been placed in, on or about the Premises by or for the benefit of Tenant. In such event, and to the extent rental abatement insurance proceeds are received by Landlord (or would have been received had Landlord carried rent abatement insurance), Tenant shall be entitled to a proportionate abatement in Rent from the date of such damage until the Premises or Building is repaired. Such abatement of Rent shall be made pro rata in accordance with the extent to which the damage and the making of such repairs shall interfere with the use and occupancy by Tenant of the Premises.

(b) Greater Than 90 Days. If the Premises or Building should be damaged only to such extent that rebuilding or repairs can reasonably be completed in more than ninety (90) days but in less than one hundred eighty (180) days after the date of casualty, then Landlord shall have the option of: (a) terminating the Lease effective upon the occurrence of such damage, in which event the Rent shall be abated from the date of the casualty; or (b) electing to repair the Premises, provided insurance proceeds are available to pay for the full repair of all damage (except that Landlord shall not be required to rebuild, repair or replace Tenant's Property), in which case Tenant shall be entitled to a proportionate abatement in Rent from the date of such damage until the Premises or Building is repaired to the extent rental abatement insurance proceeds are received by Landlord (or would have been received had

Landlord carried rent abatement insurance). Any abatement of Rent pursuant to this Section 18.1.2 shall be made pro rata in accordance with the extent to which the damage and the making of such repairs shall interfere with the use and occupancy by Tenant of the Premises. In the event that Landlord should fail to substantially complete such repairs within one hundred eighty (180) days after the date of the casualty (such period to be extended for delays caused by Tenant or because of any Force Majeure Events, as hereinafter defined), and Tenant has not reoccupied the Premises, Tenant shall have the right, as Tenant's exclusive remedy, within ten (10) days after the expiration of such one hundred eighty (180) day period, and provided that such repairs have not been substantially completed within such ten (10) day period, to terminate this Lease by delivering written notice to Landlord as Tenant's exclusive remedy, whereupon all rights of Tenant hereunder shall cease and terminate thirty (30) days after Landlord's receipt of such notice.

(c) Greater Than 180 Days. If the Premises or Building should be so damaged that rebuilding or repairs cannot be completed within one hundred eighty (180) days after the date of casualty, either Landlord or Tenant may terminate this Lease by giving written notice within ten (10) days after notice from Landlord specifying such time period of repair, and this Lease shall terminate and the Rent shall be abated from the date Tenant vacates the Premises. In the event that neither party elects to terminate this Lease, Landlord shall commence and prosecute to completion the repairs to the Premises or Building, provided insurance proceeds are available to pay for the repair of all damage (except that Landlord shall not be required to rebuild, repair or replace Tenant's Property) and Tenant shall be entitled to a proportionate abatement in Rent from the date of such damage until the Premises or Building is repaired to the extent rental abatement insurance proceeds are received by Landlord. Such abatement of Rent pursuant to this Section 18.1.3 shall be made pro rata in accordance with the extent to which the damage and the making of such repairs shall interfere with the use and occupancy by Tenant of the Premises.

(d) Casualty During the Last Year of the Term. Notwithstanding any other provisions hereof, if the Premises or Building shall be damaged within the last year of the Term, and if the cost to repair or reconstruct the portion of the Premises or Building which was damaged or destroyed shall exceed $50,000, then, irrespective of the time necessary to complete such repair or reconstruction, Landlord shall have the right, in its sole and absolute discretion, to terminate the Lease effective upon the occurrence of such damage, in which event the Rent shall be abated from the date of such damage. The foregoing right shall be in addition to any other right and option of Landlord under this Article 18. In addition, Tenant shall have the right to terminate this Lease if: (i) a material portion of the Premises is rendered untenantable by fire or other casualty and Landlord's completion estimate provides that such damage cannot reasonably be repaired (as determined by Landlord) within sixty (60) days after the date of casualty; (ii) there is less than twelve (12) months of the Term remaining on the date of such casualty; (iii) the casualty was not caused by the negligence or willful misconduct of Tenant or any of its agents, contractors, employees, licensees or invitees; and (iv) Tenant provides Landlord with written notice of its intent to terminate within thirty (30) days after the date of Landlord's completion estimate.

18.2 Uninsured Casualty. Tenant shall be responsible for and shall pay to Landlord Tenant's Share of any deductible or retention amount payable under the property insurance for the Building as part of Operating Expenses. In the event that the Premises or any portion of the Building is damaged to the extent Tenant is unable to use the Premises and such damage is not covered by insurance proceeds received by Landlord or in the event that the holder of any indebtedness secured by the Premises requires that the insurance proceeds be applied to such indebtedness, then Landlord shall have the right at Landlord's option, in Landlord's sole and absolute discretion, either (i) to repair such damage as soon as reasonably possible at Landlord's expense, or (ii) to give written notice to Tenant within thirty (30) days after the date of the occurrence of such damage of Landlord's intention to terminate this Lease as of the date of the occurrence of such damage.

18.3 Waiver. The provisions of this Lease, including this Article 18, constitute an express agreement between Landlord and Tenant with respect to damage to, or destruction of, all or any portion of the Premises or the Project, and any statute or regulation of the State of California, including without limitation Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties (and any other statute or regulation now or hereafter in effect with respect to such rights or obligations), shall have no application to this Lease or to any damage or destruction to all or any portion of the Premises or the Project.

ARTICLE 19.
CONDEMNATION

19.1 Total Condemnation. If all of the Premises is condemned by eminent domain, inversely condemned or sold under threat of condemnation for any public or quasi-public use or purpose ("Condemned"), this Lease shall terminate as of the earlier of the date the condemning authority takes title to or possession of the Premises, and Rent shall be adjusted to the date of termination.

19.2 Partial Condemnation. If any portion of the Premises or Building is condemned and such partial condemnation materially impairs Tenant's ability to use the Premises for Tenant's business as reasonably determined by Landlord, Landlord shall have the option in Landlord's sole and absolute discretion of either (i) relocating Tenant to comparable space within the Project or (ii) terminate this Lease as of the earlier of the date title vests in the condemning authority or as of the date an order of immediate possession is issued and Rent shall be adjusted to the date of termination. If such partial condemnation does not materially impair Tenant's ability to use the Premises for the business of Tenant, Landlord shall promptly restore the Premises to the extent of any condemnation proceeds recovered by Landlord, excluding the portion thereof lost in such condemnation, and this Lease shall continue in full force and effect except that after the date of such title vesting or order of immediate possession Rent shall be adjusted as reasonably determined by Landlord.

19.3 Award. If the Premises are wholly or partially condemned, Landlord shall be entitled to the entire award paid for such condemnation, and Tenant waives any claim to any part of the award from Landlord or the condemning authority; provided, however, Tenant shall have the right to recover from the condemning authority such compensation as may be separately

awarded to Tenant in connection with costs in removing Tenant's merchandise, furniture, fixtures, leasehold improvements and equipment to a new location. No condemnation of any kind shall be construed to constitute an actual or constructive eviction of Tenant or a breach of any express or implied covenant of quiet enjoyment. Tenant hereby waives the effect of Sections 1265.120 and 1265.130 of the California Code of Civil Procedure.

19.4 Temporary Condemnation. In the event of a temporary condemnation not extending beyond the Term, this Lease shall remain in effect, Tenant shall continue to pay Rent and Tenant shall receive any award made for such condemnation except damages to any of Landlord's property. If a temporary condemnation is for a period which extends beyond the Term, this Lease shall terminate as of the date of initial occupancy by the condemning authority and any such award shall be distributed in accordance with the preceding Section. If a temporary condemnation remains in effect at the expiration or earlier termination of this Lease, Tenant shall pay Landlord the reasonable cost of performing any obligations required of Tenant with respect to the surrender of the Premises.

ARTICLE 20.
HOLD HARMLESS

20.1 Tenant agrees to defend, with counsel approved by Landlord, all actions against Landlord, any member, partner, trustee, stockholder, officer, director, employee, or beneficiary of Landlord (collectively, "Landlord Parties"), holders of mortgages secured by the Premises or the Project and any other party having an interest therein (collectively with Landlord Parties, the "Indemnified Parties") with respect to, and to pay, protect, indemnify, and save harmless, to the extent permitted by law, all Indemnified Parties from and against, any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, claims, demands, or judgments of any nature to which any Indemnified Party is subject because of its estate or interest in the Premises or the Project arising from (a) injury to or death of any person, or damage to or loss of property on the Premises, the Project, on adjoining sidewalks, streets or ways, to the extent, in any of the foregoing cases, connected with the use, condition, or occupancy of the Premises, and to the extent caused by Tenant or any of its agents, contractors, licensees, sublessees, or invitees, the Project sidewalks streets, or ways, except to the extent, if any, caused by the gross negligence or willful misconduct of any Landlord Parties, (b) any violation of this Lease by or attributable to Tenant, or (c) subject to Section 12.4, any act, fault, omission, or other misconduct of Tenant or its agents, contractors, licensees, sublessees, or invitees. Tenant agrees to use and occupy the Premises and other facilities of the Project at its own risk, and hereby releases the Indemnified Parties from any and all claims for any damage or injury to the fullest extent permitted by law.

20.2 Except to the extent caused by Landlord's gross negligence or willful misconduct, Tenant agrees that Landlord shall not be responsible or liable to Tenant, its agents, employees, or invitees for fatal or non-fatal bodily injury or property damage occasioned by the acts or omissions of any other tenant, or such other tenant's agents, employees, licensees, or invitees, of the Project. Except to the extent caused by Landlord's gross negligence or willful misconduct, Landlord shall not be liable to Tenant for losses due to theft, burglary, or damages done by persons on the Project.

ARTICLE 21.
DEFAULT BY TENANT

21.1 The term “Event of Default” refers to the occurrence of any one (1) or more of the following:

(a) Failure of Tenant to pay when due any sum required to be paid hereunder which is not received by Landlord within seven (7) days after the date due (the “Monetary Default”);

(b) Failure to perform any obligation, covenant or agreement under this Lease, except as otherwise specified in this Lease or in the event of a Monetary Default, within fifteen (15) days after written notice thereof, provided that if the cure of any such failure is not reasonably susceptible of performance within such fifteen (15) day period, then an Event of Default of Tenant shall not be deemed to have occurred so long as Tenant has promptly commenced and thereafter diligently prosecutes such cure to completion and completes that cure within thirty (30) days. However, if Tenant’s failure (other than a Monetary Default) to perform cannot reasonably be cured within thirty (30) days, Tenant shall be allowed additional time (not to exceed sixty (60) days) as is reasonably necessary to cure the failure so long as: (1) Tenant commences to cure the failure within thirty (30) days, and (2) Tenant diligently pursues a course of action that will cure the failure and bring Tenant back into compliance with this Lease. However, if Tenant’s failure to comply creates a hazardous condition, the failure must be cured immediately upon notice to Tenant. In addition, if Landlord provides Tenant with notice of Tenant’s failure to comply with any particular obligation, covenant or agreement under this Lease on three (3) occasions during any twelve (12) month period, Tenant’s subsequent violation of such obligation, covenant or agreement shall, at Landlord’s option, be an incurable Event of Default by Tenant;

(c) Tenant, or any guarantor of Tenant’s obligations under this Lease (the “Guarantor”), admits in writing that it cannot meet its obligations as they become due; or is declared insolvent according to any law; or assignment of Tenant’s or Guarantor’s property is made for the benefit of creditors; or a receiver or trustee is appointed for Tenant or Guarantor or its property; or the interest of Tenant or Guarantor under this Lease is levied on under execution or other legal process; or any petition is filed by or against Tenant or Guarantor to declare Tenant bankrupt or to delay, reduce, or modify Tenant’s debts or obligations; or any petition filed or other action taken to reorganize or modify Tenant’s or Guarantor’s capital structure if Tenant is a corporation or other entity. Any such levy, execution, legal process, or petition filed against Tenant or Guarantor shall not constitute a breach of this Lease provided Tenant or Guarantor shall vigorously contest the same by appropriate proceedings and shall remove or vacate the same within ninety (90) days from the date of its creation, service, or filing;

(d) The abandonment of the Premises by Tenant, which shall mean that Tenant has vacated the Premises for ten (10) consecutive days and Tenant is in Monetary Default;

(e) The discovery by Landlord that any financial statement given by Tenant or any of its assignees, subtenants, successors-in-interest, or Guarantors was materially false; or

(f) If Tenant or any Guarantor shall die, cease to exist as a corporation or partnership, or be otherwise dissolved or liquidated or become insolvent, or shall make a transfer in fraud of creditors.

21.2 In the event of any Event of Default by Tenant, Landlord, at its option, may pursue one or more of the following remedies without notice or demand in addition to all other rights and remedies provided for at law or in equity:

(a) Landlord may continue this Lease in full force and effect, and this Lease shall continue in full force and effect as long as Landlord does not terminate Tenant's right to possession, and Landlord shall have the right to collect Rent when due. Landlord may enter the Premises and relet it, or any part of it, to third parties for Tenant's account, provided that any Rent in excess of the Rent due hereunder shall be payable to Landlord. Tenant shall be liable immediately to Landlord for all costs Landlord incurs in reletting the Premises, including, without limitation, brokers' commissions, expenses of cleaning and redecorating the Premises required by the reletting and like costs. Reletting may be for a period shorter or longer than the remaining Term of this Lease. Tenant shall pay to Landlord the Rent and other sums due under this Lease on the dates the Rent is due, less the Rent and other sums Landlord receives from any reletting. No act by Landlord allowed by this Section 21.2(a) shall terminate this Lease unless Landlord notifies Tenant in writing that Landlord elects to terminate this Lease.

"The lessor has the remedy described in Civil Code Section 1951.4 (lessor may continue the lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign subject only to reasonable limitations)."

(b) Landlord may terminate Tenant's right to possession of the Premises at any time by giving written notice to that effect. No act by Landlord other than giving written notice to Tenant shall terminate this Lease. Acts of maintenance, efforts to relet the Premises or the appointment of a receiver on Landlord's initiative to protect Landlord's interest under this Lease shall not constitute a termination of Tenant's right to possession. On termination, Landlord shall have the right to remove all personal property of Tenant and store it at Tenant's cost and to recover from Tenant as damages: (i) the worth at the time of award of unpaid Rent and other sums due and payable which had been earned at the time of termination; plus (ii) the worth at the time of award of the amount by which the unpaid Rent and other sums due and payable which would have been payable after termination until the time of award exceeds the amount of the Rent loss that Tenant proves could have been reasonably avoided; plus (iii) the worth at the time of award of the amount by which the unpaid Rent and other sums due and payable for the balance of the Term after the time of award exceeds the amount of the Rent loss that Tenant proves could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease, or which, in the ordinary course of things, would be likely to result therefrom, including, without limitation, any costs or expenses incurred by Landlord:

(A) in retaking possession of the Premises, including reasonable attorneys' fees and costs therefor; (B) maintaining or preserving the Premises for reletting to a new tenant, including repairs or alterations to the Premises for the reletting; (C) leasing commissions; (D) any other costs necessary or appropriate to relet the Premises; and (E) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of California.

(c) The "worth at the time of award" of the amounts referred to in Sections 21.2(b)(i) and 21.2(b)(ii) shall be calculated by allowing interest at the lesser of twelve percent (12%) per annum or the maximum rate permitted by law, on the unpaid Rent and other sums due and payable from the termination date through the date of award. The "worth at the time of award" of the amount referred to in Section 21.2(b)(iii) shall be calculated by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%). Tenant waives redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other present or future law, if Tenant is evicted or Landlord takes possession of the Premises by reason of any Event of Default by Tenant.

21.3 If Landlord shall exercise any one or more remedies hereunder granted or otherwise available, it shall not be deemed to be an acceptance or surrender of the Premises by Tenant whether by agreement or by operation of law; it is understood that such surrender can be effected only by the written agreement of Landlord and Tenant. No alteration of security devices and no removal or other exercise of dominion by Landlord over the property of Tenant or others in the Premises shall be deemed unauthorized or constitute a conversion, Tenant hereby consenting to the aforesaid exercise of dominion over Tenant's property within the Premises after any Event of Default.

21.4 Each right and remedy provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, including, but not limited to, suits for injunctive relief and specific performance. The exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity, or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord for any or all other rights or remedies provided for in this Lease or now or hereafter existing at or in equity or by statute or otherwise. All such rights and remedies shall be considered cumulative and non-exclusive. All costs incurred by Landlord in connection with collecting any Rent or other amounts and damages owing by Tenant pursuant to the provisions of this Lease, or to enforce any provision of this Lease, including reasonable attorneys' fees from the date such matter is turned over to an attorney, whether or not one or more actions are commenced by Landlord, shall also be recoverable by Landlord from Tenant. If any notice and grace period required under subparagraphs 22.1(a) or (b) was not previously given, a notice to pay rent or quit, or to perform or quit, as the case may be, given to Tenant under any statute authorizing the forfeiture of leases for unlawful detainer shall also constitute the applicable notice for grace period purposes required by subparagraphs 22.1(a) or (b). In such case, the applicable grace period under subparagraphs 22.1(a) or (b) and under the unlawful detainer statute shall run concurrently after the one such statutory notice, and the failure of

Tenant to cure the default within the greater of the two (2) such grace periods shall constitute both an unlawful detainer and an Event of Default entitling Landlord to the remedies provided for in this Lease and/or by said statute.

21.5 If Tenant should fail to make any payment or cure any default hereunder within the time herein permitted and such failure constitutes an Event of Default (except in the case where if Landlord in good faith believes that action prior to the expiration of any cure period under Section 21.1 is necessary to prevent damage to persons or property, in which case Landlord may act without waiting for such cure period to expire), Landlord, without being under any obligation to do so and without thereby waiving such default, may make such payment and/or remedy such default for the account of Tenant (and enter the Premises for such purpose), and thereupon, Tenant shall be obligated and hereby agrees to pay Landlord, upon demand, all reasonable costs, expenses, and disbursements, plus ten percent (10%) overhead cost incurred by Landlord in connection therewith.

21.6 In addition to Landlord's rights set forth above, if Tenant fails to pay its Rent or any other amounts owing hereunder on the due date thereof more than two (2) times during any calendar year during the Term, then upon the occurrence of the third or any subsequent default in the payment of monies during said calendar year, Landlord, at its sole option, shall have the right to require that Tenant, as a condition precedent to curing such default, pay to Landlord, in check or money order, in advance, the Rent and Landlord's estimate of all other amounts which will become due and owing hereunder by Tenant for a period of two (2) months following said cure. All such amounts shall be paid by Tenant within thirty (30) days after notice from Landlord demanding the same. All monies so paid shall be retained by Landlord, without interest, for the balance of the Term and any extension thereof, and shall be applied by Landlord to the last due amounts owing hereunder by Tenant. If, however, Landlord's estimate of the Rent and other amounts for which Tenant is responsible hereunder are inaccurate, when such error is discovered, Landlord shall pay to Tenant, or Tenant shall pay to Landlord, within thirty (30) days after written notice thereof, the excess or deficiency, as the case may be, which is required to reconcile the amount on deposit with Landlord with the actual amounts for which Tenant is responsible.

21.7 Nothing contained in this Article 21 shall limit or prejudice the right of Landlord to prove and obtain as damages in any bankruptcy, insolvency, receivership, reorganization, or dissolution proceeding, an amount equal to the maximum allowed by any statute or rule of law governing such a proceeding and in effect at the time when such damages are to be proved, whether or not such amount be greater, equal, or less than the amounts recoverable, either as damages or Rent, referred to in any of the preceding provisions of this Article 21. Notwithstanding anything contained in this Article to the contrary, any such proceeding or action involving bankruptcy, insolvency, reorganization, arrangement, assignment for the benefit of creditors, or appointment of a receiver or trustee, as set forth above, shall be considered to be an Event of Default only when such proceeding, action, or remedy shall be taken or brought by or against the then holder of the leasehold estate under this Lease.

21.8 Landlord is entitled to accept, receive, in check or money order, and deposit any payment made by Tenant for any reason or purpose or in any amount whatsoever,

and apply them at Landlord's option to any obligation of Tenant, and such amounts shall not constitute payment of any amount owed, except that to which Landlord has applied them. No endorsement or statement on any check or letter of Tenant shall be deemed an accord and satisfaction or recognized for any purpose whatsoever. The acceptance of any such check or payment shall be without prejudice to Landlord's rights to recover any and all amounts owed by Tenant hereunder and shall not be deemed to cure any other default nor prejudice Landlord's rights to pursue any other available remedy, Landlord's acceptance of partial payment of Rent does not constitute a waiver of any rights, including without limitation any right Landlord may have to recover possession of the Premises.

21.9 In the event that Tenant's right of possession of the Premises is terminated prior to the end of the initial Term by reason of an Event of Default by Tenant, then immediately upon such termination, an amount shall be due and payable by Tenant to Landlord equal to the unamortized portion as of that date (which amortization shall be based on an interest rate of nine percent (9%) per annum) of the sum of (a) the cost of Landlord's Work (if any), (b) the Allowance (if any), (c) the value of any free Base Rent (i.e., the Base Rent stated in this Lease to be abated as an inducement to Tenant's entering into this Lease) enjoyed as of that date by Tenant, and (d) the amount of all commissions paid by Landlord in order to procure this Lease.

21.10 Tenant waives the right to terminate this Lease on Landlord's default under this Lease. Tenant's sole remedy on Landlord's default is an action for damages or injunctive or declaratory relief. Landlord's failure to perform any of its obligations under this Lease shall constitute a default by Landlord under this Lease if the failure continues for thirty (30) days after written notice of the failure from Tenant to Landlord. If the required performance cannot be completed within thirty (30) days, Landlord's failure to perform shall constitute a default under the Lease unless Landlord undertakes to cure the failure within thirty (30) days and diligently and continuously attempts to complete this cure as soon as reasonably possible. All obligations of each party hereunder shall be construed as covenants, not conditions.

ARTICLE 22.
[INTENTIONALLY DELETED]

ARTICLE 23.
[INTENTIONALLY DELETED]

ARTICLE 24.
ATTORNEYS' FEES

24.1 All costs and expenses, including reasonable attorneys' fees (whether or not legal proceedings are instituted), involved in collecting rents, enforcing the obligations of Tenant, or protecting the rights or interests of Landlord under this Lease, whether or not an action is filed, including without limitation the cost and expense of instituting and prosecuting legal proceedings or recovering possession of the Premises after default by Tenant or upon expiration or sooner termination of this Lease, shall be due and payable by Tenant on demand, as Additional Rent. In addition, and notwithstanding the foregoing, if either party hereto shall file any action or bring any proceeding against the other party arising out of this Lease or for the declaration of any rights hereunder, the prevailing party in such action shall be entitled to recover

from the other party all costs and expenses, including reasonable attorneys' fees incurred by the prevailing party, as determined by the trier of fact in such legal proceeding. For purposes of this provision, the terms "attorneys' fees" or "attorneys' fees and costs," or "costs and expenses" shall mean the fees and expenses of legal counsel (including external counsel and in-house counsel) of the parties hereto, which include printing, photocopying, duplicating, mail, overnight mail, messenger, court filing fees, costs of discovery, and fees billed for law clerks, paralegals, investigators and other persons not admitted to the bar for performing services under the supervision and direction of an attorney. For purposes of determining in-house counsel fees, the same shall be considered as those fees normally applicable to a partner in a law firm with like experience in such field. In addition, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in enforcing any judgment arising from a suit or proceeding under this Lease, including without limitation post-judgment motions, contempt proceedings, garnishment, levy and debtor and third party examinations, discovery and bankruptcy litigation, without regard to schedule or rule of court purporting to restrict such award. This post-judgment award of attorneys' fees and costs provision shall be severable from any other provision of this Lease and shall survive any judgment/award on such suit or arbitration and is not to be deemed merged into the judgment/award or terminated with the Lease.

ARTICLE 25.
NON-WAIVER

25.1 Neither acceptance of any payment by Landlord from Tenant nor, failure by Landlord to complain of any action, non-action, or default of Tenant shall constitute a waiver of any of Landlord's rights hereunder. Time is of the essence with respect to the performance of every obligation of each party under this Lease in which time of performance is a factor. Waiver by either party of any right or remedy arising in connection with any default of the other party shall not constitute a waiver of such right or remedy or any other right or remedy arising in connection with either a subsequent default of the same obligation or any other default. No right or remedy of either party hereunder or covenant, duty, or obligation of any party hereunder shall be deemed waived by the other party unless such waiver is in writing, signed by the other party or the other party's duly authorized agent.

ARTICLE 26.
RULES AND REGULATIONS

26.1 Such reasonable rules and regulations applying to all lessees in the Project for the safety, care, and cleanliness of the Project and the preservation of good order thereon are hereby made a part hereof as Exhibit D, and Tenant agrees to comply with all such rules and regulations. Landlord shall have the right at all times to change such rules and regulations or to amend them in any reasonable and non-discriminatory manner as may be deemed advisable by Landlord, all of which changes and amendments shall be sent by Landlord to Tenant in writing and shall be thereafter carried out and observed by Tenant. Landlord shall not have any liability to Tenant for any failure of any other lessees of the Project to comply with such rules and regulations. In the event of a conflict between such rules an regulations and this Lease, this Lease shall control.

ARTICLE 27.
ASSIGNMENT BY LANDLORD

27.1 Landlord shall have the right to transfer or assign, in whole or in part, all its rights and obligations hereunder and in the Premises and the Project. In such event, no liability or obligation shall accrue or be charged to Landlord with respect to the period from and after such transfer or assignment and assumption of Landlord's obligations by the transferee or assignee; provided that any transferee or assignee pursuant to a voluntary, third-party transfer (but not as part of an involuntary transfer resulting from a foreclosure or deed in lieu thereof) shall have assumed Landlord's obligations under this Lease either by contractual obligation, assumption agreement or by operation of law.

ARTICLE 28.
LIABILITY OF LANDLORD

28.1 It is expressly understood and agreed that the obligations of Landlord under this Lease shall be binding upon Landlord and its successors and assigns and any future owner of the Project only with respect to events occurring during its and their respective ownership of the Project. In addition, Tenant agrees to look solely to Landlord's interest in the Project for recovery of any judgment against Landlord arising in connection with this Lease, it being agreed that neither Landlord nor any successor or assign of Landlord nor any future owner of the Project, nor any partner, shareholder, member, or officer of any of the foregoing shall ever be personally liable for any such judgment. The limitations of liability contained in this Section 28.1 shall inure to the benefit of Landlord's and the Landlord Parties' present and future partners, beneficiaries, officers, directors, trustees, shareholders, agents and employees, and their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if Landlord is a partnership), or trustee or beneficiary (if Landlord or any partner of Landlord is a trust), have any liability for the performance of Landlord's obligations under this Lease. Notwithstanding any contrary provision herein, neither Landlord nor the Landlord Parties shall be liable under any circumstances for any indirect or consequential damages or any injury or damage to, or interference with, Tenant's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring.

ARTICLE 29.
SUBORDINATION AND ATTORNMENT

29.1 This Lease, at Landlord's option, shall be subordinate to any present or future mortgage, ground lease or declaration of covenants regarding maintenance and use of any areas contained in any portion of the Building, and to any and all advances made under any present or future mortgage and to all renewals, modifications, consolidations, replacements, and extensions of any or all of same. Tenant agrees, with respect to any of the foregoing documents, that no documentation other than this Lease shall be required to evidence such subordination. If any holder of a mortgage shall elect for this Lease to be superior to the lien of its mortgage and shall give written notice thereof to Tenant, then this Lease shall automatically be deemed prior to such mortgage whether this Lease is dated earlier or later than the date of said mortgage or the date of recording thereof. Tenant agrees to execute such documents as may be further required

to evidence such subordination or to make this Lease prior to the lien of any mortgage or deed of trust, as the case may be, and by failing to do so within five (5) days after written demand, Landlord and such holder of a mortgage may rely upon such documents as prepared and delivered to Tenant and such documents shall be fully binding on Tenant. Tenant hereby attorns to all successor owners of the Building, whether or not such ownership is acquired as a result of a sale through foreclosure or otherwise. Upon written request by Tenant, Landlord will use reasonable efforts to obtain a non-disturbance, subordination and attornment agreement from Landlord's then current mortgagee on such mortgagee's then current standard form of agreement. "Reasonable efforts" of Landlord shall not require Landlord to incur any cost, expense or liability to obtain such agreement, it being agreed that Tenant shall be responsible for any fee or review costs charged by such mortgagee. Landlord's failure to obtain a non-disturbance, subordination and attornment agreement for Tenant shall have no effect on the rights, obligations and liabilities of Landlord and Tenant or be considered to be a default by Landlord hereunder.

29.2 Each party shall, at such time or times as the other party may request, upon not less than ten (10) days' prior written request by the requesting party, sign and deliver to the requesting party a certificate stating whether this Lease is in full force and effect; whether any amendments or modifications exist; whether any Monthly Rent has been prepaid and, if so, how much; whether to the knowledge of the certifying party there are any defaults hereunder; and in the circumstance where Landlord is the requesting party, such other information and agreements as may be reasonably requested, it being intended that any such statement delivered pursuant to this Article may be relied upon by the requesting party and by any prospective purchaser of all or any portion of the requesting party's interest herein, or a holder or prospective holder of any mortgage encumbering the Building. Tenant's failure to deliver such statement within five (5) days after Landlord's second written request therefor shall constitute an Event of Default (as that term is defined elsewhere in this Lease) and shall conclusively be deemed to be an admission by Tenant of the matters set forth in the request for an estoppel certificate.

29.3 Tenant shall deliver to Landlord prior to the execution of this Lease and thereafter at any time upon Landlord's request, Tenant's current audited financial statements (or, if unaudited, certified by Tenant's chief financial officer as being true, complete and correct in all material respects), including a balance sheet and profit and loss statement for the most recent prior year (collectively, the "Statements"), which Statements shall accurately and completely reflect the financial condition of Tenant. Landlord shall have the right to deliver the same to any proposed purchaser of the Building or the Project, and to any encumbrancer of all or any portion of the Building or the Project. At Tenant's request, Landlord shall enter into a confidentiality agreement with Tenant, which agreement is reasonably acceptable to Landlord and covers confidential financial information contained in the Statements provided by Tenant to Landlord.

29.4 Tenant acknowledges that Landlord is relying on the Statements in its determination to enter into this Lease, and Tenant represents to Landlord, which representation shall be deemed made on the date of this Lease and again on the Commencement Date, that no material change in the financial condition of Tenant, as reflected in the Statements, has occurred since the date Tenant delivered the Statements to Landlord. The Statements are represented and

warranted by Tenant to be correct and to accurately and fully reflect Tenant's true financial condition as of the date of submission of any Statements to Landlord.

ARTICLE 30.
HOLDING OVER

30.1 In the event Tenant, or any party claiming under Tenant, retains possession of the Premises after the Expiration Date or Termination Date, such possession shall be that of a holdover tenant and an unlawful detainer. No tenancy or interest shall result from such possession, and such parties shall be subject to immediate eviction and removal. Tenant or any such party shall pay Landlord, as Base Rent for the period of such holdover, an amount equal to one hundred fifty percent (150%) of the Base Rent otherwise provided for herein, during the time of holdover, and all other Additional Rent and other amounts payable pursuant to the terms of this Lease. Tenant shall also be liable for any and all damages sustained by Landlord as a result of such holdover. Tenant shall vacate the Premises and deliver same to Landlord immediately upon Tenant's receipt of notice from Landlord to so vacate. The Rent during such holdover period shall be payable to Landlord on demand. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend the Term of this Lease.

ARTICLE 31.
SIGNS

31.1 No sign, symbol, or identifying marks shall be put upon the Project, Building, in the halls, elevators, staircases, entrances, parking areas, or upon the doors or walls, without the prior written approval of Landlord. Should such approval ever be granted, all signs or lettering shall conform in all respects to the sign and/or lettering criteria established by Landlord. Landlord, at Landlord's sole cost and expense, reserves the right to change the door plaques as Landlord deems reasonably desirable.

31.2 Landlord shall, at Tenant's sole cost and expense, install one line of signage (the "Monument Signage") on the Building monument sign identifying Tenant's name. The graphics, materials, color, design, lettering, size and specifications of Tenant's Monument Signage shall be subject to the approval of Landlord and all applicable governmental authorities and shall conform to Landlord's approved sign plan for the Building. At the expiration or earlier termination of this Lease or termination of Tenant's sign rights as provided below, Landlord shall, at Tenant's sole cost and expense, cause the Monument Signage to be removed and the area of the monument sign affected by the Monument Signage to be restored to the condition existing prior to the installation of Tenant's Monument Signage. The right to Monument Signage is personal to the initially named Tenant in this Lease and any Permitted Transferee. All of Tenant's rights to install and maintain Monument Signage on the monument sign in accordance with this Section 31.2 shall permanently terminate upon notice from Landlord following (a) a Monetary Default under this Lease and/or (b) the date upon which Tenant or any Permitted Transferee ceases to occupy at least 10,814 rentable square feet within the Building.

31.3 Landlord, at Tenant's sole cost and expense, shall provide Tenant with Building standard lobby and suite signage.

ARTICLE 32.
HAZARDOUS SUBSTANCES

32.1 Except for Hazardous Material (as defined below) contained in products used by Tenant for ordinary cleaning and office purposes in quantities not violative of applicable Environmental Requirements, Tenant shall not permit or cause any party to bring any Hazardous Material upon the Premises and/or the Project or transport, store, use, generate, manufacture, dispose, or release any Hazardous Material on or from the Premises and/or the Project without Landlord's prior written consent. Tenant, at its sole cost and expense, shall operate its business in the Premises in strict compliance with all Environmental Requirements (as defined below) and all requirements of this Lease. Tenant shall complete and certify to disclosure statements as requested by Landlord from time to time relating to Tenant's transportation, storage, use, generation, manufacture, or release of Hazardous Materials on the Premises (if any), and Tenant shall promptly deliver to Landlord a copy of any notice of violation relating to the Premises or the Project of any Environmental Requirement.

32.2 The term "Environmental Requirements" means all applicable present and future statutes, regulations, ordinances, rules, codes, judgments, permits, authorizations, orders, policies or other similar requirements of any governmental authority, agency or court regulating or relating to health, safety, or environmental conditions on, under, or about the Premises or the environment, including without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; the Clean Air Act; the Clean Water Act; the Toxic Substances Control Act and all state and local counterparts thereto; all applicable California requirements, including, but not limited to, Sections 25115, 25117, 25122.7, 25140, 25249.8, 25281, 25316 and 25501 of the California Health and Safety Code and Title 22 of the California Code of Regulations, Division 4.5, Chapter 11, and any policies or rules promulgated thereunder as well as any County or City ordinances that may operate independent of, or in conjunction with, the State programs, and any common or civil law obligations including, without limitation, nuisance or trespass, and any other requirements of Article 3 of this Lease. The term "Hazardous Materials" means and includes any substance, material, waste, pollutant, or contaminant that is or could be regulated under any Environmental Requirement or that may adversely affect human health or the environment, including, without limitation, any solid or hazardous waste, hazardous substance, asbestos, petroleum (including crude oil or any fraction thereof, natural gas, synthetic gas, polychlorinated biphenyls (PCBs), and radioactive material). For purposes of Environmental Requirements, to the extent authorized by law, Tenant is and shall be deemed to be the responsible party, including without limitation, the "owner" and "operator" of Tenant's "facility" and the "owner" of all Hazardous Materials brought on the Premises by Tenant, its agents, employees, contractors or invitees, and the wastes, by-products, or residues generated, resulting, or produced therefrom.

32.3 Tenant, at its sole cost and expense, shall remove all Hazardous Materials stored, disposed of or otherwise released by Tenant, its assignees, subtenants, agents, employees, contractors or invitees onto or from the Premises, in a manner and to a level satisfactory to Landlord in its sole discretion, but in no event to a level and in a manner less than that which complies with all Environmental Requirements and does not limit any future uses of the

Premises or require the recording of any deed restriction or notice regarding the Premises. Tenant shall perform such work at any time during the Term of the Lease upon written request by Landlord or, in the absence of a specific request by Landlord, before Tenant's right to possession of the Premises terminates or expires. If Tenant fails to perform such work within the time period specified by Landlord or before Tenant's right to possession terminates or expires (whichever is earlier), Landlord may at its discretion, and without waiving any other remedy available under this Lease or at law or equity (including without limitation an action to compel Tenant to perform such work), perform such work at Tenant's cost. Tenant shall pay all costs incurred by Landlord in performing such work within ten (10) days after Landlord's request therefor. Such work performed by Landlord is on behalf of Tenant and Tenant remains the owner, generator, operator, transporter, and/or arranger of the Hazardous Materials for purposes of Environmental Requirements. Tenant agrees not to enter into any agreement with any person, including without limitation any governmental authority, regarding the removal of Hazardous Materials that have been disposed of or otherwise released onto or from the Premises without the written approval of Landlord.

32.4 Tenant shall indemnify, defend, and hold Landlord harmless from and against any and all losses (including, without limitation, diminution in value of the Premises or the Project and loss of rental income from the Project), claims, demands, actions, suits, damages (including, without limitation, punitive damages), expenses (including, without limitation, remediation, removal, repair, corrective action, or cleanup expenses), and costs (including, without limitation, actual attorneys' fees, consultant fees or expert fees and including, without limitation, removal or management of any asbestos brought into the Premises or disturbed in breach of the requirements of this Article 32, regardless of whether such removal or management is required by law) which are brought or recoverable against, or suffered or incurred by Landlord as a result of any release of Hazardous Materials or any breach of the requirements under this Article 32 by Tenant, its agents, employees, contractors, subtenants, assignees or invitees, regardless of whether Tenant had knowledge of such noncompliance. The obligations of Tenant under this Article 32 shall survive any termination of this Lease.

32.5 Landlord shall have access to, and a right to perform inspections and tests of, the Premises to determine Tenant's compliance with Environmental Requirements, its obligations under this Article 32, or the environmental condition of the Premises. Access shall be granted to Landlord upon Landlord's prior notice to Tenant and at such times so as to minimize, so far as may be reasonable under the circumstances, any disturbance to Tenant's operations. Such inspections and tests shall be conducted at Landlord's expense, unless such inspections or tests reveal that Tenant has not complied with any Environmental Requirement, in which case Tenant shall reimburse Landlord for the reasonable cost of such inspection and tests. Landlord's receipt of or satisfaction with any environmental assessment in no way waives any rights that Landlord holds against Tenant. Tenant shall promptly notify Landlord of any communication or report that Tenant makes to any governmental authority regarding any possible violation of Environmental Requirements or release or threat of release of any Hazardous Materials onto or from the Premises. Tenant shall, within five (5) days of receipt thereof, provide Landlord with a copy of any documents or correspondence received from any governmental agency or other party relating to a possible violation of Environmental

Requirements or claim or liability associated with the release or threat of release of any Hazardous Materials onto or from the Premises.

32.6 In addition to all other rights and remedies available to Landlord under this Lease or otherwise, Landlord may, in the event of a breach of the requirements of this Article 32 that is not cured within thirty (30) days following notice of such breach by Landlord, require Tenant to provide financial assurance (such as insurance, escrow of funds or third party guarantee) in an amount and form satisfactory to Landlord. The requirements of this Article 32 are in addition to and not in lieu of any other provision in the Lease.

32.7 Landlord hereby informs Tenant, and Tenant hereby acknowledges, that the Premises and adjacent properties overlie a former solid waste landfill site commonly known as the Westport Landfill ("Former Landfill"). Landlord further informs Tenant, and Tenant hereby acknowledges, that (i) prior testing has detected the presence of low levels of certain volatile and semi-volatile organic compounds and other contaminants in the groundwater, in the leachate from the landfilled solid waste, and/or in certain surface waters of the Project, as more fully described in the California Regional Water Quality Control Board, San Francisco Bay Region's ("Regional Board") Order No. R2-2003-0074 (Updated Waste Discharge Requirements and Rescission of Order No. 94-181) ("Order"), (ii) methane gas is or may be generated by the landfilled solid waste (item "i" immediately preceding and this item "ii" are hereafter collectively referred to as the "Landfill Contamination"), and (iii) the Premises and the Former Landfill are subject to the Order. The Order is attached hereto as Exhibit H. As evidenced by their initials on said Exhibit H, Tenant acknowledges that Landlord has provided Tenant with copies of the Order, and Tenant acknowledges that Tenant and Tenant's experts (if any) have had ample opportunity to review the Order and that Tenant has satisfied itself as to the environmental conditions of the Property and the suitability of such conditions for Tenant's intended use of the Property. Additional environmental reports are available for Tenant's review at Landlord's offices. In the event the Regional Board determines that the majority of the Premises cannot be occupied for a period in excess of thirty (30) days due to the any Hazardous Materials conditions related to the Landfill Contamination; then, provided Tenant has not caused and/or contributed to the incident responsible for said occupancy restriction, Tenant may terminate this Lease provided Tenant gives Landlord written notice within five (5) days of Tenant's receipt of notice that the Premises cannot be occupied for the purpose referenced in this Lease of its election to so terminate the Lease in the event Tenant cannot occupy the majority of the Premises at the conclusion of the thirty (30) day period. In the event said notice is received by Landlord as required herein and the majority of the Premises cannot be occupied as referenced above, this Lease shall thereafter terminate on the date of termination referenced in said Tenant notice (which date shall not be less than thirty (30) days from the date the Premises are deemed un-occupiable). Tenant agrees to cooperate and provide Landlord and the Regional Board or their authorized representatives, upon presentation of credentials, during normal business hours, immediate entry upon the Premises to assess any and all aspects of the environmental condition of the Project and its use, including, but not limited to, conducting any environmental assessment or audit, taking samples of soil, groundwater or other water, air or building materials, the inspection of treatment equipment, monitoring equipment or monitoring methods, or sampling of any discharge governed by the Order.

ARTICLE 33.
COMPLIANCE WITH LAWS AND OTHER REGULATIONS

33.1 Tenant, as its sole cost and expense, shall promptly comply with all laws, statutes, ordinances, and governmental rules, regulations, or requirements now in force or which may hereafter become in force, of federal, state, county, and municipal authorities, including, but not limited to, the Americans with Disabilities Act, with the requirements of any board of fire underwriters or other similar body now or hereafter constituted, and with any occupancy certificate issued pursuant to any law by any public officer or officers, which impose, any duty upon Landlord or Tenant, insofar as any thereof relate to or affect the condition, use, alteration, or occupancy of the Premises. Notwithstanding the foregoing, nothing herein shall require Tenant to perform any alterations, additions or improvements with respect to the Premises in order to comply with laws which require alterations, capital improvements or the installation of new or additional mechanical, electrical, plumbing or fire/life safety systems on a Building-wide basis without reference to the particular use of Tenant (other than general office use), the acts or omissions of Tenant, its agents, employees, contractors or invitees, or any alterations, additions or improvements performed by or on behalf of Tenant (other than the Landlord Work performed by Landlord). Landlord's approval of Tenant's plans for any improvements shall create no responsibility or liability on the part of Landlord for their completeness, design sufficiency, or compliance with all laws, rules, and regulations of governmental agencies or authorities, including, but not limited to, the Americans with Disabilities Act.

33.2 As an inducement to Landlord to enter into this Lease, Tenant hereby represents and warrants that: (i) Tenant is not, nor is it owned or controlled directly or indirectly by, any person, group, entity or nation named on any list issued by the Office of Foreign Assets Control of the United States Department of the Treasury pursuant to Executive Order 13224 or any similar list or any law, order, rule or regulation or any Executive Order of the President of the United States as a terrorist, "Specially Designated National and Blocked Person" or other banned or blocked person (any such person, group, entity or nation being hereinafter referred to as a "Prohibited Person"); (ii) Tenant is not (nor is it owned or controlled, directly or indirectly, by any person, group, entity or nation which is) acting directly or indirectly for or on behalf of any Prohibited Person; and (iii) neither Tenant (nor any person, group, entity or nation which owns or controls Tenant, directly or indirectly) has conducted or will conduct business or has engaged or will engage in any transaction or dealing with any Prohibited Person, including without limitation any assignment of this Lease or any subletting of all or any portion of the Premises or the making or receiving of any contribution of funds, goods or services to or for the benefit of a Prohibited Person. Tenant covenants and agrees (a) to comply with all requirements of law relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect, (b) to immediately notify Landlord in writing if any of the representations, warranties or covenants set forth in this Section 33.2 are no longer true or have been breached or if Tenant has a reasonable basis to believe that they may no longer be true or have been breached, (c) not to use funds from any Prohibited Person to make any payment due to Landlord under the Lease and (d) at the request of Landlord, to provide such information as may be requested by Landlord to determine Tenant's compliance with the terms hereof. Any breach by Tenant of the foregoing representations and warranties shall be deemed an Event of Default by

Tenant under this Lease and shall be covered by the indemnity provisions of Section 20.1 above. The representations and warranties contained in this subsection shall be continuing in nature and shall survive the expiration or earlier termination of this Lease.

ARTICLE 34.
SEVERABILITY

34.1 This Lease shall be construed in accordance with the laws of the State of California. If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws effective during the Term, then it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby. It is also the intention of both parties that in lieu of each clause or provision that is illegal, or unenforceable, there is added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and still be legal, valid, and enforceable.

ARTICLE 35.
NOTICES

35.1 Whenever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall be given or served in writing and delivered personally, or forwarded by certified or registered mail, postage prepaid, or recognized overnight courier, addressed to Landlord's address and Tenant's address, as applicable, as specified in the Basic Lease Information. Either party may change its address for notice from time to time by serving written notice of the new address as provided in this Article 35.

35.2 Notice hereunder shall become effective upon (a) delivery in case of personal delivery and (b) receipt or refusal in case of certified or registered mail or delivery by overnight courier.

ARTICLE 36.
OBLIGATIONS OF, SUCCESSORS, PLURALITY, GENDER

36.1 Landlord and Tenant agree that all the provisions hereof are to be construed as covenants and agreements as though the words imparting such covenants were used in each paragraph hereof, and that, except as restricted by the provisions hereof, shall bind and inure to the benefit of the parties hereto, their respective heirs, legal, representatives, successors, and assigns. If the rights of Tenant hereunder are owned by two or more parties, or two or more parties are designated herein as Tenant, then all such parties shall be jointly and severally liable for the obligations of Tenant hereunder. Whenever the singular: or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the other.

ARTICLE 37.
ENTIRE AGREEMENT

37.1 This Lease and any attached addenda or exhibits constitute the entire agreement between Landlord and Tenant. No prior or contemporaneous written or oral leases or

representations shall be binding. This Lease shall not be amended, changed, or extended except by written instrument signed by Landlord and Tenant.

37.2 THE SUBMISSION OF THIS LEASE BY LANDLORD, ITS AGENT OR REPRESENTATIVE FOR EXAMINATION OR EXECUTION BY TENANT DOES NOT CONSTITUTE AN OPTION OR OFFER TO LEASE THE PREMISES UPON THE TERMS AND CONDITIONS CONTAINED HEREIN OR A RESERVATION OF THE PREMISES IN FAVOR OF TENANT, IT BEING INTENDED HEREBY THAT THIS LEASE SHALL ONLY BECOME EFFECTIVE UPON THE EXECUTION HEREOF BY LANDLORD AND DELIVERY OF A FULLY EXECUTED LEASE TO TENANT.

ARTICLE 38.
CAPTIONS

38.1 Paragraph captions are for Landlord's and Tenant's convenience only, and neither limit nor amplify the provisions of this Lease.

ARTICLE 39.
CHANGES

39.1 Should any mortgagee require a modification of this Lease, which modification will not bring about any increased cost or expense to Tenant or in any other way substantially and adversely change the rights and obligations of Tenant hereunder, then and in such event Tenant agrees that this Lease may be so modified.

ARTICLE 40.
AUTHORITY

40.1 All rights and remedies of Landlord under this Lease, or those which may be provided by law, may be exercised by Landlord in its own name individually, or in its name by its agent, and all legal proceedings for the enforcement of any such rights or remedies, including distress for Rent, unlawful detainer, and any other legal or equitable proceedings may be commenced and prosecuted to final judgment and be executed by Landlord in its own name individually or in its name by its agent. Landlord and Tenant each represent to the other that each has full power and authority to execute this Lease and to make and perform the agreements herein contained, and Tenant expressly stipulates that any rights or remedies available to Landlord, either by the provisions of this Lease or otherwise, may be enforced by Landlord in its own name individually or in its name by its agent or principal.

ARTICLE 41.
BROKERAGE

41.1 Tenant represents and warrants to Landlord that it has dealt only with Tenant's Broker and Landlord's Broker, in negotiation of this Lease. Landlord shall make payment of the brokerage fee due the Landlord's Broker pursuant to and in accordance with a separate agreement between Landlord and Landlord's Broker. Landlord's Broker shall pay a portion of its commission to Tenant's Broker pursuant to a separate agreement between Landlord's Broker and Tenant's Broker. Except for amounts owing to Landlord's Broker and

Tenant's Broker, each party hereby agrees to indemnify and hold the other party harmless of and from any and all damages, losses, costs, or expenses (including, without limitation, all attorneys' fees and disbursements) by reason of any claim of or liability to any other broker or other person claiming through the indemnifying party and arising out of or in connection with the negotiation, execution, and delivery of this Lease. Additionally, except as may be otherwise expressly agreed upon by Landlord in writing, Tenant acknowledges and agrees that Landlord and/or Landlord's agent shall have no obligation for payment of any brokerage fee or similar compensation to any person with whom Tenant has dealt or may in the future deal with respect to leasing of any additional or expansion space in the Building or renewals or extensions of this Lease.

ARTICLE 42.
EXHIBITS

42.1 Exhibits A through I are attached hereto and incorporated herein for all purposes and are hereby acknowledged by both parties to this Lease.

ARTICLE 43.
APPURTENANCES

43.1 The Premises include the right of ingress and egress thereto and therefrom; however, Landlord reserves the right to make changes and alterations to the Building, fixtures and equipment thereof, in the street entrances, doors, halls, corridors, lobbies, passages, elevators, escalators, stairways, toilets and other parts thereof which Landlord may deem necessary or desirable; provided that Tenant at all times has a means of access to the Premises (subject to a temporary interruption due to Force Majeure Events or necessary maintenance that cannot reasonably be performed without such interruption of access). Neither this Lease nor any use by Tenant of the Building or any passage, door, tunnel, concourse, plaza or any other area connecting the garages or other buildings with the Building, shall give Tenant any right or easement of such use and the use thereof may, without notice to Tenant, be regulated or discontinued at any time and from time to time by Landlord without liability of any kind to Tenant and without affecting the obligations of Tenant under this Lease.

ARTICLE 44.
PREJUDGMENT REMEDY, REDEMPTION, COUNTERCLAIM, AND JURY

44.1 Tenant, for itself and for all persons claiming through or under it, hereby expressly waives any and all rights which are, or in the future may be, conferred upon Tenant by any present or future law to redeem the Premises, or to any new trial in any action for ejection under any provisions of law, after reentry thereupon, or upon any part thereof, by Landlord, or after any warrant to dispossess or judgment in ejection. If Landlord shall acquire possession of the Premises by summary proceedings, or in any other lawful manner without judicial proceedings, it shall be deemed a reentry within the meaning of that word as used in this Lease. In the event that Landlord commences any summary proceedings or action for nonpayment of Rent or other charges provided for in this Lease, Tenant shall not interpose any counterclaim of any nature or description in any such proceeding or action. Tenant and Landlord both waive a trial by jury of any or all issues arising in any action or proceeding between the parties hereto or their successors, under or connected with this Lease, or any of its provisions.

ARTICLE 45.
RECORDING

45.1 Tenant shall not record this Lease but will, at the request of Landlord, execute a memorandum or notice thereof in recordable form satisfactory to both Landlord and Tenant specifying the date of commencement and expiration of the Term of this Lease and other information required by statute. Either Landlord or Tenant may then record said memorandum or notice of lease at the cost of the recording party.

ARTICLE 46.
MORTGAGEE PROTECTION

46.1 Tenant agrees to give any mortgagees and/or trust deed holders, by registered mail, a copy of any notice of default served upon Landlord, provided that prior to such notice Tenant has been notified, in writing of the address of such mortgagees and/or trust deed holders. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in this Lease, then the mortgagees and/or trust deed holders shall have an additional thirty (30) days within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary to cure such default (including but not limited to commencement of foreclosure proceedings, if necessary to effect such cure) in which event this Lease shall not be terminated while such remedies are being so diligently pursued.

ARTICLE 47.
OTHER LANDLORD CONSTRUCTION

47.1 Tenant acknowledges that portions of the Project may be under construction following Tenant's occupancy of the Premises, and that such construction may result in levels of noise, dust, odor, obstruction of access, etc. which are in excess of that present in a fully constructed project. Tenant hereby waives any and all rent offsets or claims of constructive eviction which may arise in connection with such construction. If any excavation or construction is made adjacent to, upon or within the Building, or any part thereof, Tenant shall afford to any and all persons causing or authorized to cause such excavation or construction license to enter upon the Premises for the purpose of doing such work as such persons shall deem necessary to preserve the Building or any portion thereof from injury or damage and to support the same by proper foundations, braces and supports, without any claim for damages or indemnity or abatement of Rent (subject to the express provisions of this Lease), or of a constructive or actual eviction of Tenant.

47.2 It is specifically understood and agreed that Landlord has no obligation and has made no promises to alter, remodel, improve, renovate, repair or decorate the Premises, the Building, or any part thereof and that no representations respecting the condition of the Premises or the Building have been made by Landlord to Tenant except as specifically set forth herein or in the Tenant Work Letter. However, Tenant hereby acknowledges that Landlord is currently renovating or may during the Term renovate, improve, alter, or modify (collectively, the "Renovations") the Project and/or the Building. Tenant hereby agrees that such Renovations shall in no way constitute a constructive eviction of Tenant nor entitle Tenant to any abatement

of Rent. Landlord shall have no responsibility and shall not be liable to Tenant for any injury to or interference with Tenant's business arising from the Renovations, nor shall Tenant be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises or of Tenant's personal property or improvements resulting from the Renovations, or for any inconvenience or annoyance occasioned by such Renovations.

ARTICLE 48.
PARKING

48.1 The use by Tenant, its employees and invitees, of the parking facilities of the Project shall be on the terms and conditions set forth in Exhibit E attached hereto and by this reference incorporated herein and shall be subject to such other agreement between Landlord and Tenant as may hereinafter be established and to such other rules and regulations as Landlord may establish. Tenant, its employees and invitees shall use no more than the Maximum Parking Allocation. Tenant's use of the parking spaces shall be confined to the Project. If, in Landlord's reasonable business judgment, it becomes necessary, Landlord shall exercise due diligence to cause the creation of cross-parking easements and such other agreements as are necessary to permit Tenant, its employees and invitees to use parking spaces on properties and buildings which are separate legal parcels from the Project. Tenant acknowledges that other tenants of the Project and the tenants of the other buildings, their employees and invitees, may be given the right to park at the Project.

ARTICLE 49.
ELECTRICAL CAPACITY

49.1 Tenant covenants and agrees that at all times, its use of electric energy shall never exceed the capacity of the existing feeders to the Building or the risers of wiring installation. Any riser or risers to supply Tenant's electrical requirements upon written request of Tenant shall be installed by Landlord at the sole cost and expense of Tenant, if, in Landlord's sole judgment, the same are necessary and will not cause or create a dangerous or hazardous condition or entail excess or unreasonable alterations, repairs or expense or interfere with or disrupt other tenants or occupants. In addition to the installation of such riser or risers, Landlord will also, at the sole cost and expense of Tenant, install all other equipment proper and necessary in connection therewith subject to the aforesaid terms and conditions.

ARTICLE 50.
OPTION TO EXTEND LEASE

50.1 Extension Option. Tenant shall have the option to extend this Lease (the "Extension Option") for one additional term of three (3) years (the "Extension Period"), upon the terms and conditions hereinafter set forth:

(a) If the Extension Option is exercised, then the Base Rent per annum for such Extension Period (the "Option Rent") shall be an amount equal to the Fair Market Rental Value (as defined hereinafter) for the Premises as of the commencement of the Extension Option for such Extension Period.

(b) The Extension Option must be exercised by Tenant, if at all, only at the time and in the manner provided in this Section 50.1(b).

(i) If Tenant wishes to exercise the Extension Option, Tenant must, on or before the date occurring nine (9) months before the expiration of the initial Lease Term (but not before the date that is twelve (12) months before the expiration of the Initial Lease Term), exercise the Extension Option by delivering written notice (the "Exercise Notice") to Landlord. If Tenant timely and properly exercises its Extension Option, the Lease Term shall be extended for the Extension Period upon all of the terms and conditions set forth in the Lease, as amended, except that the Base Rent for the Extension Period shall be as provided in Section 50.l(a) and Tenant shall have no further options to extend the Lease Term.

(ii) If Tenant fails to deliver a timely Exercise Notice, Tenant shall be considered to have elected not to exercise the Extension Option.

(c) It is understood and agreed that the Extension Option hereby granted is personal to Tenant and is not transferable except in connection with any Permitted Transfer. In the event of any assignment or subletting of the Premises or any part thereof, except in connection with any Permitted Transfer, the Extension Option shall automatically terminate and shall thereafter be null and void.

(d) Tenant's exercise of the Extension Option shall, if Landlord so elects in its absolute discretion, be ineffective in the event that (i) an Event of Default by Tenant remains uncured at the time of delivery of the Exercise Notice or at the commencement of the Extension Period, or (ii) Tenant shall have reduced the size of the Premises below the size of the initial Premises by agreement with Landlord or pursuant to an express right in this Lease.

50.2 Fair Market Rental Value. The provisions of this Section shall apply in any instance in which this Lease provides that the Fair Market Rental Value is to apply.

(a) "Fair Market Rental Value" means the annual amount per square foot that a willing tenant would pay and a willing landlord would accept in arm's length negotiations, without any additional inducements, for a lease of the applicable space on the applicable terms and conditions for the applicable period of time. Fair Market Rental Value shall be determined by Landlord considering the most recent new direct leases (and market renewals and extensions, if applicable) in the Building and in Comparable Buildings in the Market Area. If there are no such direct leases that are recent, consideration shall be given to the most recent new direct leases (and market renewals and extensions, if applicable) in other Comparable Buildings in the Market Area.

(b) In determining the rental rate of comparable space, the parties shall include all escalations and take into consideration the following concessions:

(i) Rental abatement concessions, if any, being granted to tenants in connection with the comparable space;

(ii) Tenant improvements or allowances provided or to be provided for the comparable space, taking into account the value of the existing improvements in the Premises, based on the age, quality, and layout of the improvements.

(c) If in determining the Fair Market Rental Value the parties determine that the economic terms of leases of comparable space include a tenant improvement allowance, Landlord may, at Landlord's sole option, elect to do the following:

(i) Grant some or all of the value of the tenant improvement allowance as an allowance for the refurbishment of the Premises; and

(ii) Reduce the Base Rent component of the Fair Market Rental Value to be an effective rental rate that takes into consideration the total dollar value of that portion of the tenant improvement allowance that Landlord has elected not to grant to Tenant (in which case that portion of the tenant improvement allowance evidenced in the effective rental rate shall not be granted to Tenant).

50.3 Determination of Fair Market Rental Value. The determination of Fair Market Rental Value shall be as provided in this Section 50.3.

(a) Negotiated Agreement. Landlord and Tenant shall diligently attempt in good faith to agree on the Fair Market Rental Value on or before the tenth (10th) day after Tenant's exercise of the Extension Option (the "Outside Agreement Date").

(b) Parties' Separate Determinations. If Landlord and Tenant fail to reach agreement on or before the Outside Agreement Date, Landlord and Tenant shall each make a separate determination of the Fair Market Rental Value and notify the other party of this determination within five (5) days after the Outside Agreement Date.

(i) Two Determinations. If each party makes a timely determination of the Fair Market Rental Value, those determinations shall be submitted to arbitration in accordance with subsection (c).

(ii) One Determination. If Landlord or Tenant fails to make a determination of the Fair Market Rental Value within the five (5) day period, that failure shall be conclusively considered to be that party's approval of the Fair Market Rental Value submitted within the five (5) day period by the other party.

(c) Arbitration. If both parties make timely individual determinations of the Fair Market Rental Value under subsection (b), the Fair Market Rental Value shall be determined by arbitration under this subsection (c).

(i) Scope of Arbitration. The determination of the arbitrators shall be limited to the sole issue of whether Landlord's or Tenant's submitted Fair Market Rental Value is the closest to the actual Fair Market Rental Value as

determined by the arbitrators, taking into account the requirements of Section 50.2.

(ii) Qualifications of Arbitrator(s). The arbitrators must be licensed real estate brokers who have been active in the leasing of commercial multi-story properties in the Market Area over the five-year period ending on the date of their appointment as arbitrator(s).

(iii) Parties' Appointment of Arbitrators. Within fifteen (15) days after the Outside Agreement Date, Landlord and Tenant shall each appoint one arbitrator and notify the other party of the arbitrator's name and business address.

(iv) Appointment of Third Arbitrator. If each party timely appoints an arbitrator, the two (2) arbitrators shall, within ten (10) days after the appointment of the second arbitrator, agree on and appoint a third arbitrator (who shall be qualified under the same criteria set forth above for qualification of the initial two (2) arbitrators) and provide notice to Landlord and Tenant of the arbitrator's name and business address.

(v) Arbitrators' Decision. Within thirty (30) days after the appointment of the third arbitrator, the three (3) arbitrators shall decide whether the parties will use Landlord's or Tenant's submitted Fair Market Rental Value and shall notify Landlord and Tenant of their decision. The decision of the majority the three (3) arbitrators shall be binding on Landlord and Tenant.

(vi) If Only One Arbitrator is Appointed. If either Landlord or Tenant fails to appoint an arbitrator within fifteen (15) days after the Outside Agreement Date, the arbitrator timely appointed by one of them shall reach a decision and notify Landlord and Tenant of that decision within thirty (30) days after the arbitrator's appointment. The arbitrator's decision shall be binding on Landlord and Tenant.

(vii) If Only Two Arbitrators Are Appointed. If each party appoints an arbitrator in a timely manner, but the two (2) arbitrators fail to agree on and appoint a third arbitrator within the required period, the arbitrators shall be dismissed without delay and the issue of Fair Market Rental Value shall be submitted to binding arbitration under the real estate arbitration rules of JAMS, subject to the provisions of this section.

(viii) If No Arbitrator Is Appointed. If Landlord and Tenant each fail to appoint an arbitrator in a timely manner, the matter to be decided shall be submitted without delay to binding arbitration under the real estate arbitration rules of JAMS subject the provisions of this Section 50.3(c).

50.4 Cost of Arbitration. The cost of the arbitration shall be paid by the party whose submitted Fair Market Rental Value is not selected by the arbitrators.

ARTICLE 51.
TELECOMMUNICATIONS LINES AND EQUIPMENT

51.1 Location of Tenant's Equipment and Landlord Consent:

(a) Tenant may install, maintain, replace, remove and use communications or computer wires, cables and related devices (collectively, the "Lines") at the Building in or serving the Premises only with Landlord's prior written consent, which consent may not be unreasonably withheld. Tenant shall locate all electronic telecommunications equipment within the Premises and shall coordinate the location of all Lines with Landlord. Any request for consent shall contain such information as Landlord may request.

(b) Landlord's approval of, or requirements concerning, the Lines or any equipment related thereto, the plans, specifications or designs related thereto, the contractor or subcontractor, or the work performed hereunder, shall not be deemed a warranty as to the adequacy or appropriateness thereof, and Landlord hereby disclaims any responsibility or liability for the same.

(c) If Landlord consents to Tenant's proposal, Tenant shall pay all of Tenant's and Landlord's third party costs in connection therewith (including without limitation all costs related to new Lines) and shall use, maintain and operate the Lines and related equipment in accordance with and subject to all laws governing the Lines and equipment and at Tenant's sole risk and expense. Tenant shall comply with all of the requirements of this Lease concerning alterations in connection with installing the Lines. As soon as the work is completed, Tenant shall submit as-built drawings to Landlord.

(d) Landlord reserves the right to require that Tenant remove any Lines located in or serving the Premises which were installed by or on behalf of Tenant in violation of these provisions, or which are at any time in violation of any laws or present a dangerous or potentially dangerous condition, within three (3) days after written notice.

51.2 Reallocation of Line Space. Landlord may (but shall not have the obligation to) (a) install and relocate Lines at the Building; and (b) monitor and control the installation, maintenance, replacement and removal of, the allocation and periodic re-allocation of available space (if any) for, and the allocation of excess capacity (if any) on, any Lines now or hereafter installed at the Building by Landlord, Tenant or any other party. In the event Landlord elects to relocate any Lines, Landlord shall (i) make commercially reasonable efforts to notify Tenant in advance of such relocation; and (ii) exercise reasonable efforts to perform such relocation in a manner that is reasonably designed to minimize interference with the operation of Tenant's business in the Premises.

51.3 Line Problems. Except to the extent arising from the gross negligence or willful misconduct of Landlord or Landlord's contractors, agents or employees, Landlord shall have no liability for damages arising from, and Landlord does not warrant that the Tenant's use of any Lines will be free from the following (collectively called "Line Problems"): (a) any shortages, failures, variations, interruptions, disconnections, loss or damage caused by the installation, maintenance, or replacement, use or removal of Lines by or for other tenants or

occupants in the Building, by any failure of the environmental conditions or the power supply for the Building to conform to any requirement of the Lines or any associated equipment, or any other problems associated with any Lines by any other cause; (b) any failure of any Lines to satisfy Tenant's requirements; or (c) any eavesdropping or wiretapping by unauthorized parties. Landlord in no event shall be liable for damages by reason of loss of profits, business interruption or other consequential damage arising from any Line Problems.

51.4 Electromagnetic Fields. If Tenant at any time uses any equipment that may create an electromagnetic field and/or radio frequency exceeding the normal insulation ratings of ordinary twisted pair riser cable or cause radiation higher than normal background radiation, Landlord reserves the right to require Tenant to appropriately insulate that equipment and the Lines therefor (including without limitation riser cables), and take such other remedial action at Tenant's sole cost and expense as Landlord may require in its sole discretion to prevent such excessive electromagnetic fields, radio frequency or radiation.

51.5 Removal of Electrical and Telecommunications Wires. Within thirty (30) days after the expiration or sooner termination of the Lease, Landlord may elect by written notice to Tenant to: (a) retain any or all Lines installed by Tenant in the risers of the Building; or (b) require Tenant to remove any or all such Lines installed by or on behalf of Tenant and restore the Premises and risers to their condition existing prior to the installation of such Lines ("Wire Restoration Work"). If Tenant fails to perform the Wire Restoration Work as required above, Landlord may perform such Wire Restoration Work at Tenant's sole cost and expense. In the event Landlord elects to retain the Lines, Tenant covenants that Tenant shall have good right to surrender such Lines, free of all liens and encumbrances, and that all Lines shall be left in their then existing condition, reasonable wear and tear excepted, properly labeled at each end and in each telecommunications/electrical closet and junction box, and in safe condition. In the event Tenant fails or refuses to pay all costs of the Wire Restoration Work within ten (10) days of Tenant's receipt of Landlord's notice requesting Tenant's reimbursement for or payment of such costs, Landlord may apply all or any portion of Tenant's Security Deposit toward the payment of such unpaid costs relative to the Wire Restoration Work. The retention or application of such Security Deposit by Landlord pursuant to this clause does not constitute a limitation on or waiver of Landlord's right to seek further remedy under law or equity. The provisions of this clause shall survive the expiration or sooner termination of the Lease.

ARTICLE 52.
ERISA

52.1 To satisfy compliance with the Employee Retirement Income Security Act of 1974, as amended, Tenant represents and warrants to Landlord and The Prudential Insurance Company of America, a New Jersey corporation ("Prudential"), that:

(a) Tenant is not an "employee benefit plan" (as that term is defined in Section 3(3) of ERISA); and

(b) Tenant is not acquiring a leasehold interest in the Project as a plan asset subject to ERISA but for Tenant's own investment account; and

(c) Tenant is not an "affiliate" of Prudential as defined in Section IV(b) or PTE 90-1;

(d) Tenant is not a "party in interest" (as that term is defined m Section 3(14) of ERISA) to the Virginia Retirement System; and

(e) Tenant agrees to keep the identity of the Virginia Retirement System confidential, except to the extent that Tenant may be required to disclose such information as a result of (i) legal process, or (ii) compliance with ERISA or other Laws governing Tenant's operations.

ARTICLE 53.
LETTER OF CREDIT

53.1 Tenant shall deliver to Landlord, as collateral for the full performance by Tenant of all of its obligations under this Lease and for all losses and damages Landlord may suffer as a result of Tenant's failure to comply with one or more provisions of this Lease, including, but not limited to, any post lease termination damages under Section 1951.2 of the California Civil Code, an Irrevocable Standby Letter of Credit (the "Letter of Credit") in the amount of One Hundred Thirty-Seven Thousand Five Hundred Fifty-Three and 56/100's Dollars ($137,553.56). The following terms and conditions shall apply to the Letter of Credit:

53.2 The Letter of Credit shall be in favor of Landlord, shall be issued by a bank acceptable to Landlord with a Standard & Poors rating of "A" or better, shall comply with all of the terms and conditions of this Article and shall otherwise be in the form attached hereto as Exhibit I. Landlord hereby approves Union Bank as an acceptable bank as of the date of this Lease.

53.3 The Letter of Credit or any replacement Letter of Credit shall be irrevocable for the term thereof and shall automatically renew on a year to year basis until a period ending not earlier than two months subsequent to the Termination Date (the "LOC Expiration Date") without any action whatsoever on the part of Landlord; provided that the issuing bank shall have the right not to renew the Letter of Credit by giving written notice to Landlord not less than sixty (60) days prior to the expiration of the then current term of the Letter of Credit that it does not intend to renew the Letter of Credit. Tenant understands that the election by the issuing bank not to renew the Letter of Credit shall not, in any event, diminish the obligation of Tenant to deposit the Security Deposit, if any, or maintain such an irrevocable Letter of Credit in favor of Landlord through the LOC Expiration Date.

53.4 Landlord, or its then authorized representative, upon Tenant's failure to comply with one or more provisions of this Lease, or as otherwise specifically agreed by Landlord and Tenant pursuant to this Lease or any amendment hereof, without prejudice to any other remedy provided in this Lease or by Laws, shall have the right from time to time to make one or more draws on the Letter of Credit and use all or part of the proceeds in accordance with Section 53.5 below. In addition, if Tenant fails to furnish a renewal or replacement letter of credit complying with all of the provisions of this Article 53 at least sixty (60) days prior to the stated expiration date of the Letter of Credit then held by Landlord, Landlord may draw upon

such Letter of Credit and hold the proceeds thereof (and such proceeds need not be segregated) in accordance with the terms of this Article 53. Funds may be drawn down on the Letter of Credit upon presentation to the issuing bank of Landlord's (or Landlord's then authorized representative's) certification set forth in Exhibit I.

53.5 Tenant acknowledges and agrees (and the Letter of Credit shall so state) that the Letter of Credit shall be honored by the issuing bank without inquiry as to the truth of the statements set forth in such draw request and regardless of whether the Tenant disputes the content of such statement. The proceeds of the Letter of Credit shall constitute Landlord's sole and separate property (and not Tenant's property or the property of Tenant's bankruptcy estate) and Landlord may immediately upon any draw (and without notice to Tenant) apply or offset the proceeds of the Letter of Credit: (a) against any rent or other amounts payable by Tenant under this Lease that is not paid when due; (b) against all losses and damages that Landlord has suffered or that Landlord reasonably estimates that it may suffer as a result of Tenant's failure to comply with one or more provisions of this Lease, including any damages arising under Section 1951.2 of the California Civil Code following termination of this Lease; (c) against any costs incurred by Landlord in connection with this Lease (including attorneys' fees); and (d) against any other amount that Landlord may spend or become obligated to spend by reason of Tenant's default. Provided Tenant has performed all of its obligations under this Lease, Landlord agrees to pay to Tenant within sixty (60) days after the LOC Expiration Date (as defined in Section 53.3 above) the amount of any proceeds of the Letter of Credit received by Landlord and not applied as allowed above; provided, that if prior to the LOC Expiration Date a voluntary petition is filed by Tenant or any guarantor, or an involuntary petition is filed against Tenant or any Guarantor by any of Tenant's or guarantor's creditors, under the Federal Bankruptcy Code, then Landlord shall not be obligated to make such payment in the amount of the unused Letter of Credit proceeds until either all preference issues relating to payments under this Lease have been resolved in such bankruptcy or reorganization case or such bankruptcy or reorganization case has been dismissed, in each case pursuant to a final court order not subject to appeal or any stay pending appeal.

53.6 If, as result of any application or use by Landlord of all or any part of the Letter of Credit, the amount of the Letter of Credit shall be less than the amount set forth in this Article 31, Tenant shall, within five (5) days thereafter, provide Landlord with additional letter(s) of credit in an amount equal to the deficiency (or a replacement letter of credit in the total amount required pursuant to this Article 53), and any such additional (or replacement) letter of credit shall comply with all of the provisions of this Article 53, and if Tenant fails to comply with the foregoing, notwithstanding anything to the contrary contained in this Lease, the same shall constitute an incurable Event of Default by Tenant. Tenant further covenants and warrants that it will neither assign nor encumber the Letter of Credit or any part thereof and that neither Landlord nor its successors or assigns will be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

53.7 Landlord may, at any time and without notice to Tenant and without first obtaining Tenant's consent thereto, transfer all or any portion of its interest in and to the Letter of Credit to another party, person or entity in connection with refinancing or transferring its interest in the Building, including Landlord's mortgagee, and/or to have the Letter of Credit reissued in

the name of Landlord's mortgagee. If Landlord transfers its interest in the Building and transfers the Letter of Credit (or any proceeds thereof then held by Landlord) in whole or in part to the transferee, Landlord shall, without any further agreement between the parties hereto, thereupon be released by Tenant from all liability therefor. The provisions hereof shall apply to every transfer or assignment of all or any part of the Letter of Credit to a new landlord. In connection with any such transfer of the Letter of Credit by Landlord, Tenant shall, at Tenant's sole cost and expense, execute and submit to the issuer of the Letter of Credit such applications, documents and instruments as may be necessary to effectuate such transfer. Tenant shall be responsible for paying the issuer's transfer and processing fees in connection with any transfer of the Letter of Credit and, if Landlord advances any such fees (without having any obligation to do so), Tenant shall reimburse Landlord for any such transfer or processing fees within ten (10) days after Landlord's written request therefor.

53.8 If the Letter of Credit expires earlier than the LOC Expiration Date, or the issuing bank notifies Landlord that it shall not renew the Letter of Credit, Landlord shall accept a renewal thereof or substitute letter credit (such renewal or substitute Letter of Credit to be in effect not later than sixty (60) days prior to the expiration thereof), irrevocable and automatically renewable through the LOC Expiration Date upon the same terms as the expiring Letter of Credit or upon such other terms as may be acceptable to Landlord. However, if (a) the Letter of Credit is not timely renewed, or (b) a substitute Letter of Credit, complying with all of the terms and conditions of this paragraph is not timely received, Landlord may present such Letter of Credit to the issuing bank, and the entire sum so obtained shall be paid to Landlord, to be held by Landlord in accordance with Section 4.3 of this Lease. Notwithstanding the foregoing, Landlord shall be entitled to receive from Tenant all attorneys' fees and costs incurred in connection with the review of any proposed substitute Letter of Credit pursuant to this Section.

53.9 Landlord and Tenant (a) acknowledge and agree that in no event or circumstance shall the Letter of Credit or any renewal thereof or substitute therefor or any proceeds thereof be deemed to be or treated as a "security deposit" under any Regulation applicable to security deposits in the commercial context including Section 1950.7 of the California Civil Code, as such section now exist or as may be hereafter amended or succeeded ("Security Deposit Laws"), (b) acknowledge and agree that the Letter of Credit (including any renewal thereof or substitute therefor or any proceeds thereof) is not intended to serve as a security deposit, and the Security Deposit Laws shall have no applicability or relevancy thereto, and (c) waive any and all rights, duties and obligations either party may now or, in the future, will have relating to or arising from the Security Deposit Laws. Tenant hereby waives the provisions of Section 1950.7 of the California Civil Code and all other provisions of Laws, now or hereafter in effect, which (i) establish the time frame by which Landlord must refund a security deposit under a lease, and/or (ii) provide that Landlord may claim from the security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by Tenant or to clean the Premises, it being agreed that Landlord may, in addition, claim those sums specified above in this Section 53.9 and/or those sums reasonably necessary to compensate Landlord for any loss or damage caused by Tenant's breach of this Lease or the acts or omission of Tenant or any other Tenant Agent, including any damages Landlord suffers following termination of this Lease.

53.10 Notwithstanding anything to the contrary contained in this Lease, in the event that at any time the financial institution which issues said Letter of Credit is declared insolvent by the FDIC or is closed for any reason, Tenant must promptly, using commercially reasonable efforts, provide a substitute letter of credit that satisfies the requirements of this Lease hereby from a financial institution acceptable to Landlord, in Landlord's commercially reasonable discretion.

(signature pages follow)

IN WITNESS WHEREOF, Landlord and Tenant, acting herein through duly authorized individuals, have caused these presents to be executed as of the date first above written.

TENANT:

PROCEPT BIOROBOTICS CORPORATION
a California corporation

By: /s/ Nicholas Aljumi

Nicholas Aljumi, CEO
[Printed Name and Title]

By: _____

_____
[Printed Name and Title]

If Tenant is a corporation, this instrument must be executed by the chairman of the board, the president or any vice president and the secretary, any assistant secretary, the chief financial officer or any assistant financial officer or any assistant treasurer of such corporation unless the bylaws or a resolution of the board of directors shall otherwise provide, in which case the bylaws or a certified copy of the resolution, as the case may be, must be attached to this instrument.

Tenant's NAICS Code: 339110

LANDLORD:

WESTPORT OFFICE PARK, LLC,
a California limited liability company

By: THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA, a New Jersey corporation, its member

By: /s/ Kristin Paul

Kristin Paul, Vice President
[Printed Name and Title]

FIRST AMENDMENT TO LEASE
(EXPANSION)

This First Amendment to Lease (the "Agreement") is entered into as of March 2, 2016 by and between WESTPORT OFFICE PARK, LLC, a California limited liability company ("Landlord"), and PROCEPT BIOROBOTICS CORPORATION, a California corporation ("Tenant"), with respect to the following facts and circumstances:

A. Landlord and Tenant are parties to that certain Lease Agreement dated as of July 15, 2013 (the "Original Lease") of certain premises (the "Existing Premises") within the building commonly known as 900 Island Drive, Redwood City, California 94605, and more particularly described in the Original Lease. Capitalized terms used and not otherwise defined herein shall have the meanings given those terms in the Original Lease. Effective as of the date hereof, all references to the "Lease" shall refer to the Original Lease, as amended by this Agreement.

B. Landlord and Tenant desire to amend the Original Lease to add additional space on the terms and conditions provided herein.

IT IS, THEREFORE, agreed as follows:

1. **Definitions**. As used in this Agreement, the following terms have the following meanings:

"Expansion Space" means a portion of the Building, containing approximately 6,481 rentable square feet of area, and more particularly shown on Exhibit "B-1" attached hereto.

"Expansion Space Commencement Date" shall mean the earliest of (a) the date upon which Tenant first commences to conduct business in the Expansion Space, (b) the date upon which Substantial Completion (as defined in the Tenant Work Letter attached to this Agreement as Exhibit "J") of the Expansion Space occurs, and (c) the Anticipated Expansion Space Commencement Date (as defined below). As used herein, the term "Anticipated Expansion Space Commencement Date" initially means October 1, 2016, but shall be delayed by one (1) day for every one (1) day after June 30, 2016, that the existing occupant of the Expansion Space continues to occupy the Expansion Space. In the event that delivery of possession of the Expansion Space to Tenant does not occur by the Outside Delivery Date (as defined below), then Tenant shall be entitled by notice in writing to Landlord within ten (10) days thereafter to cancel the Lease, in which event the parties shall be discharged from all obligations under the Lease other than those which expressly survive the expiration or earlier termination of the Lease; provided further, however, that if such written notice of Tenant is not received by Landlord within such ten (10)-day period, Tenant's right to cancel the Lease hereunder shall terminate and be of no further force or effect. If Tenant elects to cancel the Lease pursuant to the foregoing sentence, then such termination of the Lease shall be effective on the date which is one hundred twenty (120) days after delivery of notice of termination to Landlord, unless delivery of possession of the Expansion Space to Tenant occurs within thirty (30) days of delivery of Tenant's notice hereunder. The term "Outside Delivery Date" initially means May 1, 2017, but

shall be extended by one day for every one day in delay in substantial completion of Landlord Work caused by (i) Tenant Delays, and/or (ii) any other one or more Force Majeure Events.

2. **Lease of Expansion Space**. Effective on the Expansion Space Commencement Date, the Premises shall be expanded to include the Expansion Space. Accordingly, effective on the Expansion Space Commencement Date, Landlord leases the Expansion Space to Tenant and Tenant leases the Expansion Space from Landlord, and the following terms of the Original Lease are amended as follows:

2.1 **Location of Expansion Space**. The Expansion Space is added to the Premises such that the Premises shall be comprised of the Existing Premises and the Expansion Space, and Exhibit "B-l" attached hereto is hereby added to Exhibit "B" to the Original Lease.

2.2 **Tenant's Building Percentage**. Tenant's Building Percentage is increased to 35.58%.

2.3 **Tenant's Common Area Building Percentage**. Tenant's Common Area Building Percentage is increased to 1.73%.

2.4 **Rent**. Tenant agrees to pay Landlord a Base Rent for the Expansion Space in accordance with the following schedule:

Period*	Monthly Base Rent
01 – 03	Abated**
04	$12,151.88**
05 – 12	$24,303.75
13 – 24	$25,032.86
25 – 36	$25,783.85
37 – New Expiration Date	$26,557.36

*In months measured from the first day of the calendar month in which the Expansion Space Commencement Date falls.

**See Section 2.6

The Monthly Base Rent for the first month after the Expansion Space Commencement Date for which Monthly Base Rent is due plus estimated Operating Expenses and Taxes in the amount of $6,999.48 shall be payable upon the execution of this Agreement. The Monthly Base Rent for the Expansion Space shall be payable in the manner provided for in the Original Lease.

2.5 **Term**. The Term with respect to the Expansion Space shall be coterminous with the Existing Premises, as extended by this Agreement. In the event that the Original Lease terminates pursuant to its terms, such termination shall apply to the entire Premises then subject to the Original Lease (including the Expansion Space).

2.6 **Abatement of Base Rent for Expansion Premises**. Landlord agrees that in consideration of Tenant entering into this Agreement, monthly Base Rent with respect to the Expansion Space shall be abated for the first three and one-half (3.5) months after the Expansion

Space Commencement Date. The amount of Base Rent set forth in the table in Section 2.3 for that period reflects that rent abatement. During such abatement period, Tenant shall still be responsible for the payment of all of its other monetary obligations under the Lease. In the event of a default by Tenant under the terms of the Lease that results in early termination pursuant to the provisions of Article 21 of the Lease, then as part of the recovery set forth in Article 21 of the Lease, Landlord shall be entitled to the recovery of the monthly Base Rent that was abated under the foregoing provisions.

2.7 **Permitted Use**. Landlord hereby agrees and confirms that the phrase "research and development" contained in Section 3.1 of the Original Lease expressly permits Tenant to use the Premises for laboratory purposes in compliance with all the provisions of the Lease and all Applicable Laws. Without limiting Tenant's obligations under the Original Lease with respect to Hazardous Materials and/or the surrender of the Premises, prior to the expiration or earlier termination of the Term of the Lease, Tenant shall provide a decommissioning report prepared or reviewed by an independent third party showing Tenant's compliance with all decommissioning rules and regulations under Environmental Requirements and demonstrating that the laboratory areas of the Premises have been left in a clean and uncontaminated state.

3. **Expansion Space Improvements**. Promptly following the vacation of the Expansion Space by the existing occupant, Landlord shall improve the Expansion Space (the "Expansion Space Improvements") in accordance with the Tenant Work Letter attached to this Agreement as Exhibit "J."

4. **Condition of Expansion Space**. Subject to Sections 3 and 5, Tenant shall accept the Expansion Space in its "AS IS" condition. Tenant agrees that, except as set forth in this Agreement and the Work Letter, Landlord has no obligation and has made no promise to alter, remodel, improve, or repair the Expansion Space, or any part thereof, or to repair, bring into compliance with applicable laws, or improve any condition existing in the Expansion Space as of the Expansion Space Commencement Date. Subject to Sections 3 and 5, the taking of possession of the Expansion Space by Tenant shall be conclusive evidence that the Expansion Space and the Building were in good and satisfactory condition at the time possession was taken by Tenant. Subject to Sections 3 and 5, neither Landlord nor Landlord's agents have made any representations or promises with respect to the condition of the Building, the Expansion Space, the land upon which the Building is constructed, the present or future suitability or fitness of the Expansion Space or the Building for the conduct of Tenant's particular business, or any other matter or thing affecting or related to the Building or the Expansion Space, and no rights, easements or licenses are acquired by Tenant by implication or otherwise except as expressly set forth in this Original Lease. Subject to Sections 3 and 5, any improvements or personal property located in the Expansion Space are delivered without any representation or warranty from Landlord, either express or implied, of any kind, including without limitation, title, merchantability, or suitability for a particular purpose. Tenant shall deliver to Landlord any modifications to Tenant's insurance required under the Original Lease to reflect the addition of the Expansion Space and Tenant's entry into the Expansion Space prior to the delivery of possession to Tenant.

5. **Expansion Space Covered Items**. Notwithstanding Section 4 above, Landlord warrants that the roof, parking lot and Building HVAC, and electrical and plumbing systems (the "Expansion Space Covered Items"), other than those constructed by Tenant, shall be in good operating condition on the date possession of the Expansion Space is delivered to Tenant in accordance with the Work Letter. If a non-compliance with such warranty exists as of the delivery of possession in accordance with the Work Letter, or if one of such Expansion Space Covered Items should malfunction or fail within sixty (60) days after the delivery of possession to Tenant in accordance with the Work Letter, Landlord shall, as Landlord's sole obligation with respect to such matter, promptly after receipt of written notice from Tenant setting forth in reasonable detail the nature and extent of such non-compliance, malfunction or failure, rectify the same at Landlord's expense.

6. **Letter of Credit Modification**. Section 53.1 of the Original Lease is amended to increase the required amount of the Letter of Credit by $33,556.84, for a total of $171,110.40 (the "Letter of Credit Required Amount"). No later than June 30, 2016, Tenant shall replace the Letter of Credit then being held by Landlord with a new Letter of Credit in the new Letter of Credit Required Amount or amend the Letter of Credit to that new Letter of Credit Required Amount. Tenant's failure to deliver that new Letter Credit or amended Letter Credit at that time shall be an Event of Default under the Lease without the obligation of Landlord to give any notice or opportunity to cure.

7. **Extension of Term**. The Original Lease Expiration Date is hereby changed to the date (the "New Expiration Date") that is the later of (a) January 31, 2020, and (b) the day prior to the date that is forty (40) months after the Expansion Space Commencement Date. The period from October 1, 2016 (the "Extension Commencement Date") to the New Expiration Date is referred to herein as the "Extension Term."

8. **Adjustment to Monthly Base Rent**. Prior to the Extension Commencement Date, Tenant shall continue to pay to Landlord monthly Base Rent for the Existing Premises in accordance with the terms of the Original Lease. Commencing on the Extension Commencement Date, Tenant shall pay to Landlord monthly Base Rent for the Existing Premises in accordance with the following schedule:

Period	Monthly Base Rent
10/01/2016 – 12/31/2016	Abated***
01/01/2017 – 01/31/2017	$20,276.25***
02/01/2017 – 09/30/2017	$40,552.50
10/01/2017 – 09/30/2018	$41,769.08
10/01/2018 – 09/30/2019	$43,022.15
10/01/2019 – New Expiration Date	$44,312.81

*** See Section 9.

9. **Abatement of Base Rent for Existing Premises**. Landlord agrees that in consideration of Tenant entering into this Agreement, monthly Base Rent with respect to the Existing Premises shall be abated for the first three and one-half (3.5) months after the Extension

Commencement Date. The amount of Base Rent set forth in the table in Section 8 for that period reflects that rent abatement. During such abatement period, Tenant shall still be responsible for the payment of all of its other monetary obligations under the Lease. In the event of a default by Tenant under the terms of the Lease that results in early termination pursuant to the provisions of Article 21 of the Lease, then as part of the recovery set forth in Article 21 of the Lease, Landlord shall be entitled to the recovery of the monthly Base Rent that was abated under the foregoing provisions.

10. **Condition of Existing Premises**. Tenant is in occupancy of the Existing Premises and will accept the same, as of the commencement of the Extension Term in its "as is" condition, without any agreements, representations, understandings or obligations on the part of Landlord to (i) perform any alterations, additions, repairs or improvements therein, (ii) fund or otherwise pay for any alterations, additions, repairs or improvements thereto (except as expressly set forth in the Work Letter), or (iii) grant Tenant any free rent, concessions, credits or contributions of money with respect to the Premises, except as may be expressly provided otherwise in this Agreement.

11. **Deletion of Extension Option**. The Extension Option in Article 51 of the Original Lease is hereby deleted from the Lease and is of no further force or effect.

12. **Right of First Offer**. Effective on the date of this Agreement, the following new Article 54 is hereby added to the Original Lease:

"ARTICLE 54
TENANT'S RIGHT OF FIRST OFFER

54.1 As used herein, "Offer Space" means space in the Building that is contiguous to any part of the Premises. Landlord shall from time to time give Tenant a written notice (the "Availability Notice") identifying the particular Offer Space (the "Specific Offer Space") that becomes Available (as defined below). As used herein, "Available" means that the space (i) is not part of the Premises, (ii) is not then subject to a lease, (iii) is not then subject to any rights of any tenants existing on the date of the First Amendment to this Lease to renew their lease or expand their premises as set forth in their lease, and (iv) is not then subject to any negotiations between Landlord and an existing tenant of that space.

54.2 Landlord shall, within ten (10) business days of determining that any Specific Offer Space has become Available, deliver to Tenant an Availability Notice identifying Specific Offer Space that is Available.

54.3 The location and configuration of the Specific Offer Space shall be determined by Landlord in its reasonable discretion; provided that Landlord shall have no obligations to designate Specific Offer Space that would result in any space not included in the Specific Offer Space being not Configured For Leasing (as defined below). For purposes of this Lease, "Configured For Leasing" means the applicable space must have convenient access to the central corridor on the applicable floor and must have a size and configuration that complies with all applicable building codes and other laws and is such

that Landlord judges, in its reasonable discretion, that Landlord will be able to lease such space to a third party. The Availability Notice shall:

(a) Describe the particular Specific Offer Space (including rentable area, usable area and location);

(b) Include an attached floor plan identifying such space;

(c) State the date (the "Specific Offer Space Delivery Date") the space will be available for delivery to Tenant; and

(d) Specify the Base Rent for the Specific Offer Space.

(e) Specify the increase in the security deposit or Letter of Credit amount that will apply to reflect the addition of the Specific Offer Space to the Premises.

(f) Specify the length of the term during which the Landlord is willing to lease the Specific Offer Space (the "Specific Offer Space Term").

54.4 If Tenant wishes to exercise Tenant's rights set forth in this Article 54 with respect to the Specific Offer Space, then within ten (10) business days of delivery of the Availability Notice to Tenant, Tenant shall deliver irrevocable notice to Landlord (the "First Offer Exercise Notice") offering to lease the Specific Offer Space on the terms and conditions as may be specified by Landlord in the Availability Notice.

54.5 In the event Tenant fails to give a First Offer Exercise Notice in response to any Availability Notice, Tenant shall have no further rights to receive an Availability Notice with respect to the Specific Offer Space described in the Availability Notice and Tenant's rights under this Article 54 shall terminate with respect to the Specific Offer Space described in the Availability Notice and Landlord shall be free to lease the Offer Space described in such Availability Notice to anyone on any terms at any time during the Term, without any obligation to provide Tenant with any further right to lease that Specific Offer Space.

54.6 If Tenant timely and validly gives the First Offer Exercise Notice, then beginning on the Specific Offer Space Delivery Date and continuing for the Specific Offer Space Term noted in the Availability Notice:

(a) The Specific Offer Space shall be part of the Premises under this Lease (so that the term "Premises" in this Lease shall refer to the space in the Premises immediately before the Specific Offer Space Delivery Date plus the Specific Offer Space);

(b) Tenant's Building Percentage and Common Area Building Percentage shall be adjusted to reflect the increased rentable area of the Premises.

(c) Base Rent for the Specific Offer Space shall be as specified in the Availability Notice.

(d) The security deposit or Letter of Credit amount Tenant must provide shall be increased by the amounts specified in the Availability Notice.

(e) Tenant's lease of the Specific Offer Space shall be on the same terms and conditions as affect the original Premises from time to time, except as otherwise provided in this section and as specified in the Availability Notice. Tenant's obligation to pay Rent with respect to the Specific Offer Space shall begin on the Specific Offer Space Delivery Date. The Specific Offer Space shall be leased to Tenant in its "as-is" condition and Landlord shall not be required to construct improvements in, or contribute any tenant improvement allowance for, the Specific Offer Space. Tenant's construction of any improvements in the Specific Offer Space shall comply with the terms of this Lease concerning alterations.

(f) If requested by Landlord, Landlord and Tenant shall confirm in writing the addition of the Specific Offer Space to the Premises on the terms and conditions set forth in this section, but Tenant's failure to execute or deliver such written confirmation shall not affect the enforceability of the First Offer Exercise Notice.

54.7 Tenant's rights and Landlord's obligations under this Article 54 are expressly subject to and conditioned upon there not existing an Event of Default by Tenant under this Lease, either at the time of delivery of the First Offer Exercise Notice or at the time the Specific Offer Space is to be added to the Premises.

54.8 It is understood and agreed that the rights under this Article 54 are personal to Tenant and are not transferable except to a Permitted Transferee in connection with an assignment of Tenant's entire interest in this Lease. In the event of any assignment or subletting of the Premises or any part thereof (other than to a Permitted Transferee), this expansion right shall automatically terminate and shall thereafter be null and void."

13. **Original Lease In Effect With Modifications**. Except as otherwise provided herein, all of the terms and conditions of the Original Lease shall continue to apply during the Extension Term; provided, however, that there shall be no rent credit, and that there shall be no improvement allowance, Landlord construction obligations or other initial concessions with respect to the Extension Term, except as provided in Sections 2.6, 3 and 8 of this Agreement, and Tenant shall have no further option to extend the term.

14. **Brokers**. Landlord hereby represents and warrants to Tenant that it has dealt with no broker, finder or similar person in connection with this Agreement, and Tenant hereby represents and warrants to Landlord that it has dealt with no broker, finder or similar person in connection with this Agreement, other than Cushman & Wakefield ("Landlord's Broker") and Cornish & Carey Commercial NKF ("Tenant's Broker"). Landlord and Tenant shall each defend, indemnify and hold the other harmless with respect to all claims, causes of action, liabilities, losses, costs and expenses (including without limitation attorneys' fees) with respect

to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker, agent, finder or similar person other than Landlord's Broker and Tenant's Broker. The commission with respect to this Agreement shall be paid to Landlord's Broker by Landlord pursuant to a separate agreement. Landlord's Broker will pay Tenant's Broker a commission pursuant to a separate agreement. Nothing in this Agreement shall impose any obligation on Landlord to pay a commission or fee to any party other than Landlord's Broker. Nothing in this Agreement shall impose any obligation on Tenant to pay a commission or fee to any party in connection with this Agreement.

15. **Time of the Essence**. Time is of the essence of this Agreement and the provisions contained herein.

16. **Estoppel**. As additional consideration for this Agreement, Tenant hereby certifies to Landlord on the date hereof as follows:

(a) The Original Lease (as amended hereby) is in full force and effect.

(b) Tenant is in possession of the Existing Premises and has not sublet any portion of the Existing Premises or assigned its interest in the Lease.

(c) To Tenant's knowledge, there are no uncured defaults on the part of Landlord or Tenant under the Original Lease.

(d) All of Landlord's obligations with respect to construction of tenant improvements in the Premises and payment of Tenant improvement allowances have been satisfied, except those provided for in the Work Letter and Section 3 of this Agreement.

(e) To Tenant's knowledge, there are no existing offsets or defenses which Tenant has against the enforcement of the Original Lease (as amended hereby) by Landlord.

(f) All of the representations and warranties of Tenant in the Original Lease are hereby remade.

17. **Miscellaneous**. Except as specifically provided herein, the terms and conditions of the Original Lease as amended hereby are confirmed and continue in full force and effect. This Agreement shall be binding on the heirs, administrators, successors and assigns (as the case may be) of the parties hereto. This Agreement and the attached Exhibits, which are hereby incorporated into and made a part of this Agreement, set forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. Under no circumstances shall Tenant be entitled to any Rent abatement, improvement allowance, leasehold improvements, or other work to the Premises, or any similar economic incentives that may have been provided to Tenant in connection with entering into the Original Lease, unless specifically set forth in this Agreement. Tenant agrees that neither Tenant nor its agents or any other parties acting on behalf of Tenant shall disclose

any matters set forth in this Agreement or disseminate or distribute any information concerning the terms, details or conditions hereof to any person, firm or entity without obtaining the express written consent of Landlord. In the case of any inconsistency between the provisions of the Original Lease and this Agreement, the provisions of this Agreement shall govern and control. Submission of this Agreement by Landlord is not an offer to enter into this Agreement but rather is a solicitation for such an offer by Tenant. Landlord shall not be bound by this Agreement until Landlord has executed and delivered the same to Tenant. Paragraph captions are for Landlord's and Tenant's convenience only, and neither limit nor amplify the provisions of this Agreement.

18. **OFAC**. As an inducement to Landlord to enter into this Agreement, Tenant hereby represents and warrants that to the Tenant's knowledge: (i) Tenant is not, nor is it owned or controlled directly or indirectly by, any person, group, entity or nation named on any list issued by the Office of Foreign Assets Control of the United States Department of the Treasury ("OFAC") pursuant to Executive Order 13224 or any similar list or any law, order, rule or regulation or any Executive Order of the President of the United States as a terrorist, "Specially Designated National and Blocked Person" or other banned or blocked person (any such person, group, entity or nation being hereinafter referred to as a "Prohibited Person"); (ii) Tenant is not (nor is it owned or controlled, directly or indirectly, by any person, group, entity or nation which is) acting directly or indirectly for or on behalf of any Prohibited Person; and (iii) neither Tenant (nor any person, group, entity or nation which owns or controls Tenant, directly or indirectly) has conducted or will conduct business or has engaged or will engage in any transaction or dealing with any Prohibited Person, including without limitation any assignment of the Lease or any subletting of all or any portion of the Premises or the making or receiving of any contribution of funds, goods or services to or for the benefit of a Prohibited Person. Tenant covenants and agrees (a) to comply with all requirements of law relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect, (b) to immediately notify Landlord in writing if any of the representations, warranties or covenants set forth in this Section are no longer true or have been breached or if Tenant has a reasonable basis to believe that they may no longer be true or have been breached, (c) not to use funds from any Prohibited Person to make any payment due to Landlord under the Lease and (d) at the request of Landlord, to provide such information as may be requested by Landlord to determine Tenant's compliance with the terms hereof. Any breach by Tenant of the foregoing representations and warranties shall be deemed a default by Tenant under this Lease and shall be covered by the indemnity provisions of the Original Lease. The representations and warranties contained in this Section shall be continuing in nature and shall survive the expiration or earlier termination of the Lease.

19. **ERISA**. To satisfy compliance with the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and Section 4975(c) of the Internal Revenue Code, Tenant represents and warrants to Landlord that (i) Tenant is not an "employee benefit plan" (as that term is defined in Section 3(3) of ERISA); (ii) no portion of the rights of Tenant in the Original Lease and this Agreement or in the leasehold estate demised thereby constitutes a plan asset subject to ERISA; and (iii) the undersigned is not an "affiliate" of The Prudential Insurance Company of America as defined in Section IV(b) of PTE90-1.

20. **CASP**. Pursuant to California Civil Code Section 1938, Tenant is hereby notified that, as of the date hereof, the Building has not undergone an inspection by a "Certified Access Specialist" and Landlord makes no representations as to the compliance of the Premises or the Building with accessibility standards.

21. **Electrical Utilities Usage Information**. If Tenant is billed directly by a public utility with respect to Tenant's electrical usage at the Premises, upon request from time to time, Tenant shall provide monthly electrical utility usage for the Premises to Landlord for the period of time requested by Landlord (in electronic or paper format) or, at Landlord's option, provide any written authorization or other documentation required for Landlord to request information regarding Tenant's electricity usage with respect to the Premises directly from the applicable utility company.

IN WITNESS WHEREOF, this Agreement is executed as of the date first above written.

Landlord:

WESTPORT OFFICE PARK, LLC,
a California limited liability company

By: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation, acting solely on behalf of and for the benefit of, and with its liability limited to the assets of, its insurance company separate account, PRISA II, its member

By: /s/ Jeffrey D. Mills
Jeffrey D. Mills
Vice President
[Printed Name and Title]

Tenant:

PROCEPT BIOROBOTICS CORPORATION,
A California corporation

By: /s/ Reza Zadno

Its: CEO

By: /s/ Sham Shiblaq

Its: VP, Sales and Marketing

If Tenant is a corporation, this instrument must be executed by the chairman of the board, the president or any vice president and the secretary, any assistant secretary, the chief financial officer or any assistant financial officer or any assistant treasurer of such corporation, unless the bylaws or a resolution of the board of directors shall otherwise provide, in which case the bylaws or a certified copy of the resolution, as the case may be, must be attached to this instrument.

SECOND AMENDMENT TO LEASE

This Second Amendment to Lease (the "**Agreement**") is entered into as of May 20, 2016, by and between WESTPORT OFFICE PARK, LLC, a California limited liability company ("**Landlord**"), and PROCEPT BIOROBOTICS CORPORATION, a California corporation ("**Tenant**"), with respect to the following facts and circumstances:

A. Landlord and Tenant are parties to that certain Lease Agreement dated as of July 15, 2013, as amended by a First Amendment to Lease dated March 2, 2016 (the "**First Amendment**", and together, the "**Original Lease**") of certain premises (the "**Premises**") within the building commonly known as 900 Island Drive, Redwood City, California 94605, and more particularly described in the Original Lease. Capitalized terms used and not otherwise defined herein shall have the meanings given those terms in the Original Lease. Effective as of the date hereof, all references to the "**Lease**" shall refer to the Original Lease, as amended by this Agreement.

B. Landlord and Tenant desire to amend the Original Lease on the terms and conditions provided herein.

IT IS, THEREFORE, agreed as follows:

1. **Definitions.** The definition of "Expansion Space Commencement Date" in Section 1 of the First Amendment is hereby deleted in its entirety and replaced with the following:

"**Expansion Space Commencement Date**" shall mean October 1, 2016, but shall be delayed by one (1) day for every one (1) day after June 30, 2016, that the existing occupant of the Expansion Space continues to occupy the Expansion Space. In the event that delivery of possession of the Expansion Space to Tenant does not occur by the Outside Delivery Date (as defined below), for any reason, then Tenant shall be entitled by notice in writing to Landlord within ten (10) days thereafter to cancel the Lease, in which event the parties shall be discharged from all obligations under the Lease other than those which expressly survive the expiration or earlier termination of the Lease; provided further, however, that if such written notice of Tenant is not received by Landlord within such ten (10)-day period, Tenant's right to cancel the Lease hereunder shall terminate and be of no further force or effect. If Tenant elects to cancel the Lease pursuant to the foregoing sentence, then such termination of the Lease shall be effective on the date which is one hundred twenty (120) days after delivery of notice of termination to Landlord, unless delivery of possession of the Expansion Space to Tenant occurs within thirty (30) days of delivery of Tenant's notice hereunder. The term "Outside Delivery Date" initially means May 1, 2017, but shall be extended by one day for every one day in delay in delivery of possession of the Expansion Space to Tenant caused by any one or more Force Majeure Events, provided that in no event shall Force Majeure Events extend the Outstanding Delivery Date for more than forty-five (45) days."

2. **Expansion Space Improvements**. Section 3 of the First Amendment is hereby deleted in its entirety and replaced with the following:

"Promptly following the delivery of possession of the Expansion Space to Tenant, Tenant shall improve the Expansion Space (the "**Expansion Space Improvements**") in accordance with the Tenant Work Letter attached to this Agreement as Exhibit "J.""

3. **Work Letter**. Exhibit J attached to the First Amendment is hereby deleted in its entirety and replaced with Exhibit J attached hereto.

4. **Brokers**. Landlord hereby represents and warrants to Tenant that it has dealt with no broker, finder or similar person to whom a commission is payable in connection with this Agreement, and Tenant hereby represents and warrants to Landlord that it has dealt with no broker, finder or similar person to whom a commission is payable in connection with this Agreement. Landlord and Tenant shall each defend, indemnify and hold the other harmless with respect to all claims, causes of action, liabilities, losses, costs and expenses (including without limitation attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker, agent, finder or similar person in connection with this Agreement. Nothing in this Agreement shall impose any obligation on Landlord to pay a commission or fee to any party in connection with this Agreement. Nothing in this Agreement shall impose any obligation on Tenant to pay a commission or fee to any party in connection with this Agreement.

5. **Time of the Essence**. Time is of the essence of this Agreement and the provisions contained herein.

6. **Estoppel**. As additional consideration for this Agreement, Tenant hereby certifies to Landlord on the date hereof as follows:

(a) The Original Lease (as amended hereby) is in full force and effect.

(b) Tenant is in possession of the Premises (other than the Expansion Space) and has not sublet any portion of the Premises or assigned its interest in the Lease.

(c) To Tenant's knowledge, there are no uncured defaults on the part of Landlord or Tenant under the Original Lease.

(d) All of Landlord's obligations with respect to construction of tenant improvements in the Premises and payment of Tenant improvement allowances have been satisfied, except those provided for in the Work Letter attached to the First Amendment (as amended hereby).

(e) To Tenant's knowledge, there are no existing offsets or defenses which Tenant has against the enforcement of the Original Lease (as amended hereby) by Landlord.

(f) All of the representations and warranties of Tenant in the Original Lease are hereby remade.

7. **Miscellaneous**. Except as specifically provided herein, the terms and conditions of the Original Lease as amended hereby are confirmed and continue in full force and effect. This Agreement shall be binding on the heirs, administrators, successors and assigns (as the case may be) of the parties hereto. This Agreement and the attached Exhibits, which are hereby incorporated into and made a part of this Agreement, set forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. Under no circumstances shall Tenant be entitled to any Rent abatement, improvement allowance, leasehold improvements, or other work to the Premises, or any similar economic incentives that may have been provided to Tenant in connection with entering into the Original Lease, unless specifically set forth in this Agreement. Tenant agrees that neither Tenant nor its agents or any other parties acting on behalf of Tenant shall disclose any matters set forth in this Agreement or disseminate or distribute any information concerning the terms, details or conditions hereof to any person, firm or entity without obtaining the express written consent of Landlord. In the case of any inconsistency between the provisions of the Original Lease and this Agreement, the provisions of this Agreement shall govern and control. Submission of this Agreement by Landlord is not an offer to enter into this Agreement but rather is a solicitation for such an offer by Tenant. Landlord shall not be bound by this Agreement until Landlord has executed and delivered the same to Tenant. Paragraph captions are for Landlord's and Tenant's convenience only, and neither limit nor amplify the provisions of this Agreement.

8. **OFAC**. As an inducement to Landlord to enter into this Agreement, Tenant hereby represents and warrants that to the Tenant's knowledge: (i) Tenant is not, nor is it owned or controlled directly or indirectly by, any person, group, entity or nation named on any list issued by the Office of Foreign Assets Control of the United States Department of the Treasury ("**OFAC**") pursuant to Executive Order 13224 or any similar list or any law, order, rule or regulation or any Executive Order of the President of the United States as a terrorist, "Specially Designated National and Blocked Person" or other banned or blocked person (any such person , group, entity or nation being hereinafter referred to as a "Prohibited Person"); (ii) Tenant is not (nor is it owned or controlled, directly or indirectly, by any person, group, entity or nation which is) acting directly or indirectly for or on behalf of any Prohibited Person; and (iii) neither Tenant (nor any person, group, entity or nation which owns or controls Tenant, directly or indirectly) has conducted or will conduct business or has engaged or will engage in any transaction or dealing with any Prohibited Person, including without limitation any assignment of the Lease or any subletting of all or any portion of the Premises or the making or receiving of any contribution of funds, goods or services to or for the benefit of a Prohibited Person. Tenant covenants and agrees (a) to comply with all requirements of law relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect, (b) to immediately notify Landlord in writing if any of the representations, warranties or covenants set forth in this Section are no longer true or have been breached or if Tenant has a reasonable basis to believe that they may no longer be true or have been breached, (c) not to use funds from any Prohibited Person to make any payment due to Landlord under the Lease and (d) at the request of Landlord, to provide such information as may be requested by Landlord to determine Tenant's compliance

with the terms hereof. Any breach by Tenant of the foregoing representations and warranties shall be deemed a default by Tenant under this Lease and shall be covered by the indemnity provisions of the Original Lease. The representations and warranties contained in this Section shall be continuing in nature and shall survive the expiration or earlier termination of the Lease.

9. **ERISA**. To satisfy compliance with the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), and Section 4975(c) of the Internal Revenue Code, Tenant represents and warrants to Landlord that (i) Tenant is not an "employee benefit plan" (as that term is defined in Section 3(3) of ERISA); (ii) no portion of the rights of Tenant in the Original Lease and this Agreement or in the leasehold estate demised thereby constitutes a plan asset subject to ERISA; and (iii) the undersigned is not an "affiliate" of The Prudential Insurance Company of America as defined in Section IV(b) of PTE90-1.

10. **CASP**. Pursuant to California Civil Code Section 1938, Tenant is hereby notified that, as of the date hereof, the Building has not undergone an inspection by a "Certified Access Specialist" and Landlord makes no representations as to the compliance of the Premises or the Building with accessibility standards.

11. **Electrical Utilities Usage Information**. If Tenant is billed directly by a public utility with respect to Tenant's electrical usage at the Premises, upon request from time to time, Tenant shall provide monthly electrical utility usage for the Premises to Landlord for the period of time requested by Landlord (in electronic or paper format) or, at Landlord's option, provide any written authorization or other documentation required for Landlord to request information regarding Tenant's electricity usage with respect to the Premises directly from the applicable utility company.

IN WITNESS WHEREOF, this Agreement is executed as of the date first above written.

Landlord:

WESTPORT OFFICE PARK, LLC,
a California limited liability company

By: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation, acting solely on behalf of and for the benefit of, and with its liability limited to the assets of, its insurance company separate account, PRISA II, its member

By: /s/ Catherine B. Minor
Catherine B. Minor
Vice President
[Printed Name and Title]

Tenant:

PROCEPT BIOROBOTICS CORPORATION,
a California corporation

By: /s/ Surag Mantri – 5/23/2016

Its: VP, R&D

By: /s/ Nikolai Aljuri – 05/24/16

Its: CEO

If Tenant is a corporation, this instrument must be executed by the chairman of the board, the president or any vice president and the secretary, any assistant secretary, the chief financial officer or any assistant financial officer or any assistant treasurer of such corporation, unless the bylaws or a resolution of the board of directors shall otherwise provide, in which case the bylaws or a certified copy of the resolution, as the case may be, must be attached to this instrument.

THIRD AMENDMENT TO LEASE
(EXPANSION)

This Third Amendment to Lease (the "Agreement") is entered into as of April 4, 2018 by and between WESTPORT OFFICE PARK, LLC, a California limited liability company ("Landlord"), and PROCEPT BIOROBOTICS CORPORATION, a California corporation ("Tenant"), with respect to the following facts and circumstances:

A. Landlord and Tenant are parties to that certain Lease Agreement dated as of July 15, 2013, as amended by a First Amendment to Lease dated March 2, 2016 and a Second Amendment to Lease dated May 20, 2016 (collectively, the "Original Lease") of certain premises (the "Existing Premises") within the building commonly known as Suites 101 and 210, 900 Island Drive, Redwood City, California 94605, and more particularly described in the Original Lease. Capitalized terms used and not otherwise defined herein shall have the meanings given those terms in the Original Lease. Effective as of the date hereof, all references to the "Lease" shall refer to the Original Lease, as amended by this Agreement.

B. Landlord and Tenant desire to amend the Original Lease to add additional space on the terms and conditions provided herein.

IT IS, THEREFORE, agreed as follows:

1. **Definitions**. As used in this Agreement, the following terms have the following meanings:

"Second Expansion Space" means, collectively, the Suites 150 and 170 Expansion Space (as defined below) and the Suite 203 Expansion Space (as defined below).

"Suites 150 and 170 Expansion Space" means a portion of the Building, containing approximately 12,824 rentable square feet of area, and more particularly shown on Exhibit "B-2" attached hereto.

"Suites 150 and 170 Expansion Space Commencement Date" shall mean the earlier of (a) the date upon which Tenant first commences to conduct business in the Suites 150 and 170 Expansion Space, and (b) the date that is one hundred twenty (120) days after the Suites 150 and 170 Early Occupancy Date (as defined in Exhibit "K" attached hereto).

"Suite 203 Expansion Space" means a portion of the Building, containing approximately 8,577 rentable square feet of area, and more particularly shown on Exhibit "B-3" attached hereto.

"Suite 203 Expansion Space Commencement Date" shall mean the earlier of (a) the date upon which Tenant first commences to conduct business in the Suite 203 Expansion Space, and (b) the date that is one hundred twenty (120) days after the Suite 203 Early Occupancy Date (as defined in Exhibit "K" attached hereto).

2. **Lease of Suites 150 and 170 Expansion Space**. Effective on the Suites 150 and 170 Expansion Space Commencement Date, the Premises shall be expanded to include the Suites 150 and 170 Expansion Space. Accordingly, effective on the Suites 150 and 170 Expansion

Space Commencement Date, Landlord leases the Suites 150 and 170 Expansion Space to Tenant and Tenant leases the Suites 150 and 170 Expansion Space from Landlord, and the following terms of the Original Lease are amended as follows:

2.1 **Location of Suites 150 and 170 Expansion Space**. The Suites 150 and 170 Expansion Space is added to the Premises such that the Premises shall be comprised of the Existing Premises, the Suite 203 Expansion Space, if then applicable, and the Suites 150 and 170 Expansion Space, and Exhibit "B-2" attached hereto is hereby added to Exhibit "B" to the Original Lease.

2.2 **Tenant's Building Percentage**. Tenant's Building Percentage is increased by 26.38%.

2.3 **Tenant's Common Area Building Percentage**. Tenant's Common Area Building Percentage is increased by 1.29%.

2.4 **Rent**. Tenant agrees to pay Landlord a Base Rent for the Suites 150 and 170 Expansion Space in an amount equal to $4.10 per square foot of rentable space in the Suites 150 and 170 Expansion Space, which Base Rent shall increase by three percent (3%) on each anniversary of the Suites 150 and 170 Expansion Space Commencement Date; provided, however, in the event that the Suite 203 Expansion Space Commencement Date occurs prior to the Suites 150 and 170 Expansion Space Commencement Date, then Tenant agrees to pay Landlord a Base Rent for the Suites 150 and 170 Expansion Space at the same rental rate per square foot of rentable space then in effect for the Suite 203 Expansion Space, as the rental rate for monthly Base Rent for the Suite 203 Expansion Space may increase from time to time. The monthly Base Rent for the first month after the Suites 150 and 170 Expansion Space Commencement Date for which monthly Base Rent is due plus estimated Operating Expenses and Taxes in the amount of $15,388.80 shall be payable upon the execution of this Agreement. The monthly Base Rent for the Suites 150 and 170 Expansion Space shall be payable in the manner provided for in the Original Lease.

2.5 **Term**. The Term with respect to the Suites 150 and 170 Expansion Space shall be coterminous with the Existing Premises, as extended by this Agreement. In the event that the Original Lease terminates pursuant to its terms, such termination shall apply to the entire Premises then subject to the Original Lease (including the Suites 150 and 170 Expansion Space).

2.6 **Abatement of Base Rent for Suites 150 and 170 Expansion Premises**. Landlord agrees that in consideration of Tenant entering into this Agreement, monthly Base Rent with respect to the Suites 150 and 170 Expansion Space shall be abated for the first three (3) months after the Suites 150 and 170 Expansion Space Commencement Date. During such abatement period, Tenant shall still be responsible for the payment of all of its other monetary obligations under the Lease. In the event of a default by Tenant under the terms of the Lease that results in early termination pursuant to the provisions of Article 21 of the Lease, then as part of the recovery set forth in Article 21 of the Lease, Landlord shall be entitled to the recovery of the monthly Base Rent that was abated under the foregoing provisions.

2.7 **Maximum Parking Allocation**. The Maximum Parking Allocation is increased by forty-two (42) unreserved passes.

3. **Lease of Suite 203 Expansion Space**. Effective on the Suite 203 Expansion Space Commencement Date, the Premises shall be expanded to include the Suite 203 Expansion Space. Accordingly, effective on the Suite 203 Expansion Space Commencement Date, Landlord leases the Suite 203 Expansion Space to Tenant and Tenant leases the Suite 203 Expansion Space from Landlord, and the following terms of the Original Lease are amended as follows:

3.1 **Location of Suite 203 Expansion Space**. The Suite 203 Expansion Space is added to the Premises such that the Premises shall be comprised of the Existing Premises, the Suites 150 and 170 Expansion Space, if then applicable, and the Suite 203 Expansion Space, and Exhibit "B-3" attached hereto is hereby added to Exhibit "B" to the Original Lease.

3.2 **Tenant's Building Percentage**. Tenant's Building Percentage is increased by 17.64%, and including the Existing Premises and the Suites 150 and 170 Expansion Space, Tenant's total Building Percentage will be 79.60%.

3.3 **Tenant's Common Area Building Percentage**. Tenant's Common Area Building Percentage is increased by 0.86%, and including the Existing Premises and the Suites 150 and 170 Expansion Space, Tenant's total Common Area Building Percentage will be 3.88%.

3.4 **Rent**. Tenant agrees to pay Landlord a Base Rent for the Suite 203 Expansion Space in an amount equal to $4.10 per square foot of rentable space in the Suite 203 Expansion Space, which Base Rent shall increase by three percent (3%) on each anniversary of the Suite 203 Expansion Space Commencement Date; provided, however, in the event that the Suites 150 and 170 Expansion Space Commencement Date occurs prior to the Suite 203 Expansion Space Commencement Date, then Tenant agrees to pay Landlord a Base Rent for the Suite 203 Expansion Space at the same rental rate per square foot of rentable space then in effect for the Suites 150 and 170 Expansion Space, as the rental rate for monthly Base Rent for the Suites 150 and 170 Expansion Space may increase from time to time. The monthly Base Rent for the first month after the Suite 203 Expansion Space Commencement Date for which monthly Base Rent is due plus estimated Operating Expenses and Taxes in the amount of $10,292.40 shall be payable upon the execution of this Agreement. The monthly Base Rent for the Suite 203 Expansion Space shall be payable in the manner provided for in the Original Lease.

3.5 **Term**. The Term with respect to the Suite 203 Expansion Space shall be coterminous with the Existing Premises, as extended by this Agreement. In the event that the Original Lease terminates pursuant to its terms, such termination shall apply to the entire Premises then subject to the Original Lease (including the Suite 203 Expansion Space).

3.6 **Abatement of Base Rent for Suite 203 Expansion Premises**. Landlord agrees that in consideration of Tenant entering into this Agreement, monthly Base Rent with respect to the Suite 203 Expansion Space shall be abated for the first three (3) months after the Suite 203 Expansion Space Commencement Date. During such abatement period, Tenant shall still be responsible for the payment of all of its other monetary obligations under the Lease. In

the event of a default by Tenant under the terms of the Lease that results in early termination pursuant to the provisions of Article 21 of the Lease, then as part of the recovery set forth in Article 21 of the Lease, Landlord shall be entitled to the recovery of the monthly Base Rent that was abated under the foregoing provisions.

3.7 **Maximum Parking Allocation**. The Maximum Parking Allocation is increased by twenty-eight (28) unreserved passes, and together with the Maximum Parking Allocation increase in Section 2.7, the total Maximum Parking Allocation increase will be seventy (70) unreserved passes.

4. **Second Expansion Space Improvements**. Promptly following the delivery of each of the Suites 150 and 170 Expansion Space and the Suite 203 Expansion Space to Tenant, Tenant shall improve each of the Suites 150 and 170 Expansion Space and the Suite 203 Expansion Space in accordance with the Tenant Work Letter attached to this Agreement as Exhibit "K."

5. **Condition of Suites 150 and 170 Expansion Space and Suite 203 Expansion Space**. Subject to the Work Letter and Sections 4 and 6, Tenant shall accept each of the Suites 150 and 170 Expansion Space and the Suite 203 Expansion Space in its "AS IS" condition. Tenant agrees that, except as set forth in this Agreement and the Work Letter, Landlord has no obligation and has made no promise to alter, remodel, improve, or repair the Suites 150 and 170 Expansion Space, the Suite 203 Expansion Space, or any part thereof, or to repair, bring into compliance with applicable laws, or improve any condition existing in the Suites 150 and 170 Expansion Space or the Suite 203 Expansion Space as of the Suites 150 and 170 Expansion Space Commencement Date or Suite 203 Expansion Space Commencement Date, as applicable. Subject to the Work Letter and Sections 4 and 6, the taking of possession of each of the Suites 150 and 170 Expansion Space and the Suite 203 Expansion Space by Tenant shall be conclusive evidence that the Suites 150 and 170 Expansion Space and the Suite 203 Expansion Space and the Building were in good and satisfactory condition at the time possession was taken by Tenant. Subject to Sections 4 and 6, neither Landlord nor Landlord's agents have made any representations or promises with respect to the condition of the Building, the Suites 150 and 170 Expansion Space, the Suite 203 Expansion Space, the land upon which the Building is constructed, the present or future suitability or fitness of the Suites 150 and 170 Expansion Space, the Suite 203 Expansion Space or the Building for the conduct of Tenant's particular business, or any other matter or thing affecting or related to the Building or the Suites 150 and 170 Expansion Space or the Suite 203 Expansion Space, and no rights, easements or licenses are acquired by Tenant by implication or otherwise except as expressly set forth in this Original Lease. Subject to the Work Letter and Sections 4 and 6, any improvements or personal property located in the Suites 150 and 170 Expansion Space and the Suite 203 Expansion Space are delivered without any representation or warranty from Landlord, either express or implied, of any kind, including without limitation, title, merchantability, or suitability for a particular purpose. Tenant shall deliver to Landlord any modifications to Tenant's insurance required under the Original Lease to reflect the addition of the Suites 150 and 170 Expansion Space and the Suite 203 Expansion Space and Tenant's entry into the Suites 150 and 170 Expansion Space and the Suite 203 Expansion Space prior to the delivery of possession to Tenant.

6. **Second Expansion Space Covered Items**. Notwithstanding Section 5 above, Landlord warrants that the roof, parking lot and Building HVAC, and electrical and plumbing systems (the "Second Expansion Space Covered Items"), other than those constructed by Tenant, shall be in good operating condition on the date possession of each of the Suites 150 and 170 Expansion Space and the Suite 203 Expansion Space is delivered to Tenant in accordance with the Work Letter. If a non-compliance with such warranty exists as of the delivery of possession in accordance with the Work Letter, or if one of such Second Expansion Space Covered Items should malfunction or fail within ninety (90) days after the delivery of possession to Tenant in accordance with the Work Letter, Landlord shall, as Landlord's sole obligation with respect to such matter, promptly after receipt of written notice from Tenant setting forth in reasonable detail the nature and extent of such non-compliance, malfunction or failure, rectify the same at Landlord's expense.

7. **Letter of Credit Modification**. Section 53.1 of the Original Lease is amended to increase the required amount of the Letter of Credit by $519,964.22, for a total of $691,074.62 (the "Letter of Credit Required Amount"). No later than May 1, 2018, Tenant shall replace the Letter of Credit then being held by Landlord with a new Letter of Credit in the new Letter of Credit Required Amount or amend the Letter of Credit to that new Letter of Credit Required Amount. Tenant's failure to deliver that new Letter Credit or amended Letter Credit at that time shall be an Event of Default under the Lease without the obligation of Landlord to give any notice or opportunity to cure. Subject to the remaining terms of this Section 7, and provided the Reduction Condition (as defined below) has been satisfied at the reduction effective date, Tenant shall have the right to reduce the Letter of Credit Required Amount so that the new Letter of Credit Required Amount shall be $388,300.86 effective as of the first day of the thirty-second (32nd) month of the Second Extension Term (as defined below). If Tenant is entitled to a reduction in the Letter of Credit Required Amount, Tenant shall provide Landlord with written notice requesting that the Letter of Credit Required Amount be reduced as provided above (the "Reduction Notice"). If Tenant provides Landlord with a Reduction Notice, and Tenant is entitled to reduce the Letter of Credit Required Amount as provided herein, the reduction shall be effectuated by Tenant replacing the Letter of Credit then being held by Landlord with a new Letter of Credit in the new Letter of Credit Required Amount or amending the then-existing Letter of Credit to that new Letter of Credit Required Amount. The term Reduction Condition means no Event of Default shall have occurred under the Lease.

8. **Extension of Term**. The Original Lease Expiration Date is hereby changed to the date (the "Second New Expiration Date") that is sixty-three (63) months after the earlier of the Suites 150 and 170 Expansion Space Commencement Date, and (b) the Suite 203 Expansion Space Commencement Date. The period from February 1, 2020 (the "Second Extension Commencement Date") to the Second New Expiration Date is referred to herein as the "Second Extension Term." After the Suite 203 Expansion Space Commencement Date and the Suites 150 and 170 Expansion Space Commencement Date have both been determined, Tenant shall execute a Commencement Date Memorandum substantially in the form of Exhibit F to the Original Lease acknowledging, among other things, (a) the Suite 203 Expansion Space Commencement Date and the Suites 150 and 170 Expansion Space Commencement Date, (b) the Second New

Expiration Date, and (c) the schedule of Base Rent for the Premises. Tenant's failure to execute that Commencement Date Memorandum shall not affect Tenant's liability hereunder.

9. **Adjustment to Monthly Base Rent**. Prior to the Second Extension Commencement Date, Tenant shall continue to pay to Landlord monthly Base Rent for the Existing Premises in accordance with the terms of the Original Lease. Commencing on the Second Extension Commencement Date, Tenant shall pay to Landlord monthly Base Rent for the Existing Premises at the same rental rate per square foot of rentable space then in effect for the Second Expansion Space, as the rental rate for monthly Base Rent for the Second Expansion Space may increase from time to time.

10. **Condition of Existing Premises**. Tenant is in occupancy of the Existing Premises and will accept the same, as of the commencement of the Second Extension Term in its "as is" condition, without any agreements, representations, understandings or obligations on the part of Landlord to (i) perform any alterations, additions, repairs or improvements therein, (ii) fund or otherwise pay for any alterations, additions, repairs or improvements thereto (except as expressly set forth in the Work Letter), or (iii) grant Tenant any free rent, concessions, credits or contributions of money with respect to the Premises, except as may be expressly provided otherwise in this Agreement.

11. **Right of First Offer**. Effective on the date of this Agreement, the definition of "Offer Space" in Article 54 of the Original Lease shall include, without limitation, Suite 204 in the Building.

12. **Signage**. Effective as of each of the Suites 150 and 170 Expansion Space Commencement Date and the Suite 203 Expansion Space Commencement Date, as applicable, Landlord, at Tenant's sole cost and expense, shall provide Tenant with Building standard suite signage with respect to each of the Suites 150 and 170 Expansion Space and the Suite 203 Expansion Space. Effective as of each of the Suites 150 and 170 Expansion Space Commencement Date and the Suite 203 Expansion Space Commencement Date, as applicable, and subject to availability as determined by Landlord, Tenant's share of the Monument Signage shall be increased to such size as Landlord shall reasonably determine is comparable to the share of monument signage provided by Landlord to other tenants of the Project occupying a similar amount of rentable square footage in the Project as Tenant is occupying at such time. Effective as of the date that Tenant or any Permitted Transferee commences to occupy at least one (1) entire floor of the Building, the following new Section 31.4 shall be added to the Original Lease:

"31.4 Landlord shall, at Tenant's sole cost and expense, install one line of signage at the top of the Building (the "Building-top Signage") identifying Tenant's name. The graphics, materials, color, design, lettering, size and specifications of Tenant's Building-top Signage shall be subject to the reasonable approval of Landlord and the approval of all applicable governmental authorities and shall conform to Landlord's approved sign plan for the Building. At the expiration or earlier termination of this Lease or termination of Tenant's sign rights as provided below, Landlord shall, at Tenant's sole cost and expense, cause the Building-top Signage to be removed and the area of the top of the Building affected by the Building-top Signage to be restored to the condition existing prior to the installation of Tenant's Building-top Signage, reasonable wear and tear and

discoloration due to sun exposure excepted. The right to Building-top Signage is personal to the initially named Tenant in this Lease and any Permitted Transferee. To the extent Tenant desires to change the name set forth on the Building-Top Signage, such name shall not have a name which relates to an entity which is of a character or reputation, or is associated with a political faction or orientation, which is inconsistent with the quality of the Project, or which would otherwise reasonably offend a landlord of a Comparable Building. All of Tenant's rights to install and maintain Building-top Signage on the top of the Building in accordance with this Section 31.4 shall permanently terminate upon notice from Landlord following (a) a Monetary Default under this Lease and/or (b) the date upon which Tenant or any Permitted Transferee ceases to occupy at least one (1) entire floor of the Building."

13. **Parking**. Landlord and Tenant acknowledge that Tenant may desire to make the following alterations in accordance with Article 14 of the Original Lease: (a) reconfigure up to three (3) parking stalls adjacent to the exterior sliding glass doors to allow each access for truck delivery and pick up and/or (b) install up to three (3) storage pods on parking stalls designated by Landlord (collectively, the "Parking Alterations"). Landlord agrees not to unreasonably withhold its consent to the Parking Alterations. Notwithstanding anything to the contrary in this Lease, Landlord shall be deemed to have acted reasonably in disapproving plans or designs for the Parking Alterations if Landlord determines in good faith that the matter disapproved constitutes or would create a Design Problem (as defined in Exhibit "K" attached hereto). Anything to the contrary in the Lease notwithstanding, Tenant, at Tenant's sole cost and expense, shall remove the Parking Alterations at the expiration or earlier termination of the Term of the Lease and restore the area affected by the Parking Alterations to the condition existing prior to the installation of the Parking Alterations.

14. **Must-Take Space**. As used herein, the term "Must-Take Space" means approximately 4,789 square feet of rentable area in the Building commonly known as Suite 202 and as outlined in Exhibit B-4 attached to this Agreement. The Premises shall be expanded to include the Must-Take Space on the date (the "Must-Take Space Commencement Date") that is the earlier of (A) the date upon which Tenant first commences to conduct business in the Must-Take Space, and (B) the date that is ninety (90) days after the Must-Take Space Early Occupancy Date (as defined below). Tenant shall be permitted to enter into the Must-Take Space on the Must-Take Space Early Occupancy Date without the obligation for payment of Rent for the purposes of installing its furniture, fixtures, cabling, files and equipment and improving the Must-Take Space in accordance with the Tenant Work Letter attached hereto as Exhibit "K"; and provided that (a) Tenant first provides Landlord with proof of insurance that is required by the terms of the Lease, modified to apply to the Must-Take Space, (b) all construction by Tenant shall be performed in accordance with the terms of the Lease and the Tenant Work Letter attached hereto as Exhibit "K", and (c) Tenant has notified Landlord of Tenant's schedule of early entry. Any access by Tenant or its agents to the Must-Take Space prior to the Must-Take Space Commencement Date shall be subject to all of the terms and conditions of the Lease, except that the obligation to pay Rent shall not commence until the Must-Take Space Commencement Date, and no such early access shall alter the Must-Take Space Commencement Date, Without limiting any other provision of the Lease, except to the extent caused by the gross

negligence or willful misconduct of Landlord or its agents, Landlord shall not be responsible for damages or loss to any work performed by Tenant or to Tenant's personal property or the personal property of Tenant's contractor's, employees or agents which occurs during such period of early access. As used herein, "Must-Take Space Early Occupancy Date" means the later of (i) November 1, 2019, and (ii) the earlier of (y) May 1, 2020, and (z) the day after the date upon which the existing occupant of the Must-Take Space surrenders such space to Landlord, Accordingly, on the Must-Take Space Commencement Date (a) Tenant's Building Percentage is increased by 9.85%, (b) Tenant's Common Area Building Percentage is increased by 0.48%, (c) the Maximum Parking Allocation shall be increased by fifteen (15) unreserved passes, (d) the Term with respect to the Must-Take Space shall be coterminous with the Existing Premises, as extended by this Agreement, (e) the Base Rent per square foot of rentable area for the Must-Take Space added pursuant to this Section 14 shall be the same as the Base Rent per square foot of rentable area for the Second Expansion Space as it may be adjusted during the Term, (f) the lease commencement date for the Must-Take Space added by this Section 14 shall be the Must-Take Space Commencement Date, (g) the lease term for the Must-Take Space added by this Section 14 shall expire coterminously with the Term for the Existing Premises, as extended by this Agreement, (h) any other provision of the Lease that is determined based on the rentable area of the Premises shall be redetermined, (i) the Letter of Credit Required Amount shall be increased to $776,601.71, which Letter of Credit Required Amount shall be subject to reduction in accordance with the terms of Section 7 of this Agreement, and (j) upon either party's request, Landlord and Tenant shall execute an amendment to the Lease and a memorandum thereof confirming the change to the Premises pursuant to this Section 14 and the corresponding changes to the provisions of the Lease that are based on the rentable area of the Premises. Promptly following the delivery of the Must-Take Space to Tenant, Tenant shall improve the Must-Take Space (the "Must-Take Space Improvements") pursuant to the terms of the Tenant Work Letter attached to this Agreement as Exhibit "K", except that the allowance with respect to the Must-Take Space shall be $57,468.00 and Tenant shall not otherwise be provided with any other allowance for any other portion of the Premises.

15. **Original Lease In Effect With Modifications**. Except as otherwise provided herein, all of the terms and conditions of the Original Lease shall continue to apply during the Second Extension Term; provided, however, that there shall be no rent credit, and that there shall be no improvement allowance, Landlord construction obligations or other initial concessions with respect to the Second Extension Term, except as provided in Sections 2.6, and 4 of this Agreement, and Tenant shall have no further option to extend the term.

16. **Brokers**. Landlord hereby represents and warrants to Tenant that it has dealt with no broker, finder or similar person in connection with this Agreement, and Tenant hereby represents and warrants to Landlord that it has dealt with no broker, finder or similar person in connection with this Agreement, other than Cushman & Wakefield ("Landlord's Broker") and Newmark Cornish & Carey ("Tenant's Broker"). Landlord and Tenant shall each defend, indemnify and hold the other harmless with respect to all claims, causes of action, liabilities, losses, costs and expenses (including without limitation attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker, agent, finder or similar person other

than Landlord's Broker and Tenant's Broker. The commission with respect to this Agreement shall be paid to Landlord's Broker by Landlord pursuant to a separate agreement. Landlord's Broker will pay Tenant's Broker a commission pursuant to a separate agreement. Nothing in this Agreement shall impose any obligation on Landlord to pay a commission or fee to any party other than Landlord's Broker. Nothing in this Agreement shall impose any obligation on Tenant to pay a commission or fee to any party in connection with this Agreement.

17. **Time of the Essence**. Time is of the essence of this Agreement and the provisions contained herein.

18. **Estoppel**. As additional consideration for this Agreement, Tenant hereby certifies to Landlord on the date hereof as follows:

(a) The Original Lease (as amended hereby) is in full force and effect.

(b) Tenant is in possession of the Existing Premises and has not sublet any portion of the Existing Premises or assigned its interest in the Lease.

(c) To Tenant's knowledge, there are no uncured defaults on the part of Landlord or Tenant under the Original Lease.

(d) All of Landlord's obligations with respect to construction of tenant improvements in the Premises and payment of Tenant improvement allowances have been satisfied, except those provided for in the Work Letter and Section 4 of this Agreement.

(e) To Tenant's knowledge, there are no existing offsets or defenses which Tenant has against the enforcement of the Original Lease (as amended hereby) by Landlord.

(f) All of the representations and warranties of Tenant in the Original Lease are hereby remade.

19. **Miscellaneous**. Except as specifically provided herein, the terms and conditions of the Original Lease as amended hereby are confirmed and continue in full force and effect. This Agreement shall be binding on the heirs, administrators, successors and assigns (as the case may be) of the parties hereto. This Agreement and the attached Exhibits, which are hereby incorporated into and made a part of this Agreement, set forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. Under no circumstances shall Tenant be entitled to any Rent abatement, improvement allowance, leasehold improvements, or other work to the Premises, or any similar economic incentives that may have been provided to Tenant in connection with entering into the Original Lease, unless specifically set forth in this Agreement. Tenant agrees that, except to the extent required by law, neither Tenant nor its agents or any other parties acting on behalf of Tenant shall disclose any matters set forth in this Agreement or disseminate or distribute any information concerning the terms, details or conditions hereof to any person, firm or entity without obtaining the express written consent of Landlord. In the case of any inconsistency between the provisions of the Original Lease and this Agreement, the provisions of this Agreement shall govern and control. Submission of this Agreement by Landlord is not an

offer to enter into this Agreement but rather is a solicitation for such an offer by Tenant. Landlord shall not be bound by this Agreement until Landlord has executed and delivered the same to Tenant. Paragraph captions are for Landlord's and Tenant's convenience only, and neither limit nor amplify the provisions of this Agreement.

20. **OFAC**. As an inducement to Landlord to enter into this Agreement, Tenant hereby represents and warrants that to the Tenant's knowledge: (i) Tenant is not, nor is it owned or controlled directly or indirectly by, any person, group, entity or nation named on any list issued by the Office of Foreign Assets Control of the United States Department of the Treasury ("OFAC") pursuant to Executive Order 13224 or any similar list or any law, order, rule or regulation or any Executive Order of the President of the United States as a terrorist, "Specially Designated National and Blocked Person" or other banned or blocked person (any such person, group, entity or nation being hereinafter referred to as a "Prohibited Person"); (ii) Tenant is not (nor is it owned or controlled, directly or indirectly, by any person, group, entity or nation which is) acting directly or indirectly for or on behalf of any Prohibited Person; and (iii) neither Tenant (nor any person, group, entity or nation which owns or controls Tenant, directly or indirectly) has conducted or will conduct business or has engaged or will engage in any transaction or dealing with any Prohibited Person, including without limitation any assignment of the Lease or any subletting of all or any portion of the Premises or the making or receiving of any contribution of funds, goods or services to or for the benefit of a Prohibited Person. Tenant covenants and agrees (a) to comply with all requirements of law relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect, (b) to immediately notify Landlord in writing if any of the representations, warranties or covenants set forth in this Section are no longer true or have been breached or if Tenant has a reasonable basis to believe that they may no longer be true or have been breached, (c) not to use funds from any Prohibited Person to make any payment due to Landlord under the Lease and (d) at the request of Landlord, to provide such information as may be requested by Landlord to determine Tenant's compliance with the terms hereof. Any breach by Tenant of the foregoing representations and warranties shall be deemed a default by Tenant under this Lease and shall be covered by the indemnity provisions of the Original Lease. The representations and warranties contained in this Section shall be continuing in nature and shall survive the expiration or earlier termination of the Lease.

21. **ERISA**. Tenant represents, warrants and covenants to Landlord that, as of the date hereof and throughout the term of the Lease, Tenant is not, and is not entering into the Lease on behalf of, (i) an employee benefit plan, (ii) a trust holding assets of such a plan or (iii) an entity holding assets of such a plan. Notwithstanding any terms to the contrary in the Lease or this Agreement, in no event may Tenant assign or transfer its interest under the Lease to a third party who is, or is entering into the Lease on behalf of, (i) an employee benefit plan, (ii) a trust holding assets of such a plan or (iii) an entity holding assets of such a plan if such transfer would could cause Landlord to incur any prohibited transaction excise tax penalties or other materially adverse consequences under the Employee Retirement Income Security Act of 1974, as amended, Section 4975 of the Internal Revenue Code of 1986, as amended or similar law. Tenant represents and warrants to Landlord that (i) neither Tenant nor any of its "affiliates" has the authority (A) to appoint or terminate PGIM, Inc. ("PGIM") as investment manager of the

PRISA II Separate Account, (B) to negotiate the terms of a management agreement between PGIM and the PRISA II Separate Account or (C) to cause an investment in or withdrawal from the PRISA II Separate Account and (ii) Tenant is not "related" to PGIM (within the meaning of Part VI(h) of Department of Labor Prohibited Transaction Exemption 84-14).

22. **CASP**. Pursuant to California Civil Code Section 1938, Tenant is hereby notified that, as of the date hereof, the Building has not undergone an inspection by a "Certified Access Specialist" and except to the extent expressly set forth in the Lease, Landlord shall have no liability or responsibility to make any repairs or modifications to the Premises or the Project in order to comply with accessibility standards. The following disclosure is hereby made pursuant to applicable California law: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." Tenant acknowledges that Landlord has made no representation regarding compliance of the Premises or the Project with accessibility standards. Any CASp inspection shall be conducted in compliance with reasonable rules in effect at the Building with regard to such inspections and shall be subject to Landlord's prior written consent.

23. **Net Income or Profits**. No Rent or other payment in respect of the Premises shall be based in any way upon net income or profits from the Premises. Tenant may not enter into or permit any sublease or license or other agreement in connection with the Premises which provides for a rental or other payment based on net income or profit.

24. **Contingencies**. It is hereby acknowledged that the Suites 150 and 170 Expansion Space is currently subject to a lease (the "Suites 150 and 170 Existing Lease") by and between Landlord or Landlord's predecessor-in-interest and the existing tenant under the Suites 150 and 170 Existing Lease (the "Suites 150 and 170 Existing Tenant"). The parties hereto understand and agree that effectiveness of this Agreement is subject to and conditioned upon (a) the termination of the Suites 150 and 170 Existing Lease on terms acceptable to Landlord in its sole discretion, as evidenced by the full execution of a termination agreement by and between Landlord and the Suites 150 and 170 Existing Tenant ("Suites 150 and 170 Termination Agreement"), and (b) the surrender by the Suites 150 and 170 Existing Tenant of possession of the Suites 150 and 170 Expansion Space as and when required pursuant to the Suites 150 and 170 Termination Agreement. It is hereby acknowledged that the Must-Take Space is currently subject to a lease (the "Must-Take Space Existing Lease") by and between Landlord or Landlord's predecessor-in-interest and the existing tenant under the Must-Take Space Existing Lease (the "Must-Take Space Existing Tenant"). The parties hereto understand and agree that effectiveness of this Agreement is subject to and conditioned upon the extension of the term of the Must-Take Space Existing Lease with respect to Suite 202 in the Building on terms acceptable to Landlord in its sole discretion, as evidenced by the full execution of a lease

amendment agreement by and between Landlord and the Must-Take Space Existing Tenant ("Must-Take Space Extension Agreement"). If any of the Suites 150 and 170 Expansion Space Existing Tenant, Suite 203 Expansion Space Existing Tenant and Must-Take Space Existing Tenant do not deliver the Suites 150 and 170 Expansion Space, Suite 203 Expansion Space and Must-Take Space (collectively, the "Expansion Spaces") respectively by February 1, 2019, Tenant has the right to terminate this Agreement with respect to the undelivered Expansion Spaces upon written notice to Landlord thereof. For the avoidance of doubt, if Tenant terminates this Agreement with respect to less than all of the Expansion Spaces, this Agreement shall continue to be in full force and effect as to the other Expansion Spaces.

IN WITNESS WHEREOF, this Agreement is executed as of the date first above written.

Landlord:

WESTPORT OFFICE PARK, LLC,
a California limited liability company

By: PR II LHC Bayshore Technology Center,
LLC, a Delaware limited liability company, its managing member

By: PRlSA II LHC, LLC, a Delaware limited liability company, its sole Member

By:	/s/ Jeffrey D. Mills
Name:	Jeffrey D. Mills
Title:	Vice President

Tenant:

PROCEPT BIOROBOTICS CORPORATION,
a California corporation

By: /s/ Reza Zadno

Its: CEO

By: /s/ Kevin Waters

Its: CEO

If Tenant is a corporation, this instrument must be executed by the chairman of the board, the president or any vice president and the secretary, any assistant secretary, the chief financial officer or any assistant financial officer or any assistant treasurer of such corporation, unless the bylaws or a resolution of the board of directors shall otherwise provide, in which case the bylaws or a certified copy of the resolution, as the case may be, must be attached to this instrument.

PROCEPT BIOROBOTICS CORPORATION

AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT

THIS AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT (the "***Agreement***") is entered into as of June 10, 2021, by and among PROCEPT BioRobotics Corporation, a Delaware corporation (the "***Company***"), the investors listed on Exhibit A hereto (each, an "***Investor***" and collectively, the "***Investors***"), and the Founders (as defined below).

WHEREAS, the Company, the Investors, and certain holders of Common Stock are parties to that certain Amended and Restated Investor Rights Agreement dated April 6, 2021 (the "***Prior Agreement***");

WHEREAS, certain Investors are parties to that certain Series G Preferred Stock Purchase Agreement, dated June 10, 2021 (the "***Purchase Agreement***");

WHEREAS, the parties to the Prior Agreement desire to amend and restate the Prior Agreement and accept the rights and covenants hereof in lieu of their rights and covenants under the Prior Agreement; and

WHEREAS, the Company and the Investors have agreed to the registration rights, information rights, and other rights as set forth below.

NOW, **THEREFORE**, in consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. GENERAL.

1.1 Amendment and Restatement of Prior Agreement. Upon the execution and delivery of this Agreement by the requisite parties of the Prior Agreement, the Prior Agreement automatically shall terminate and be of no further force and effect and shall be amended and restated in its entirety as set forth in this Agreement.

1.2 Definitions. As used in this Agreement the following terms shall have the following respective meanings:

(a) "***Affiliate***" means, with respect to (i) any specified Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person, including without limitation any general partner, managing member, officer or director of such Person or any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management company with, such Person. Affiliate shall also mean, in the case of any venture capital, private equity or similar fund now or hereafter existing that is an Investor hereunder, all partners, members, stockholders or other equity holders of any kind of such venture capital, private equity or similar fund, regardless of whether such partners, members, stockholders or other equity holders control such venture capital, private equity or similar fund, (ii) Fidelity and each Fidelity Investor, any

mutual fund, pension fund, pooled investment vehicle or institutional client advised or sub-advised by Fidelity or any affiliated investment adviser of Fidelity, or (iii) T. Rowe Price and each T. Rowe Price Investor, any mutual fund, pension fund, pooled investment vehicle or institutional client advised or sub-advised by T. Rowe Price or any affiliated investment adviser of T. Rowe Price.

(b) "***Board***" means the Board of Directors of the Company.

(c) "***Certificate***" means the Company's Amended and Restated Certificate of Incorporation, as in effect as of the date hereof and as the same may be amended from time to time.

(d) "***Competitor***" means a Person engaged, directly or indirectly (including through any partnership, limited liability company, corporation, joint venture or similar arrangement (whether now existing or formed hereafter)) in the business of the Company as currently conducted and currently contemplated to be conducted, but shall not include any financial investment firm or collective investment vehicle by virtue of its ownership (and/or its Affiliates' ownership) of an equity interest in any Competitor; *provided*, that each of (i) Johnson & Johnson Innovation – JJDC, Inc. ("***JJDC***"), (ii) Fidelity, and (iii) T. Rowe Price will not be considered a Competitor for any purpose as such term is used in this Agreement.

(e) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

(f) "***Fidelity***" means Fidelity Management & Research Company, and any successor or affiliated registered investment advisor to the Fidelity Investors.

(g) "***Fidelity Investor***" means any Purchaser that is advised or sub-advised by Fidelity.

(h) "***Form S-3***" means such form under the Securities Act as in effect on the date hereof or any successor or similar registration form under the Securities Act subsequently adopted by the SEC which permits inclusion or incorporation of substantial information by reference to other documents filed by the Company with the SEC.

(i) "***Founder***" means each the holders of Common Stock listed on Exhibit B hereto.

(j) "***Founders' Stock***" means the shares of Common Stock issued to the Founders and held by the Founders or Affiliates of the Founders.

(k) "***Holder***" means any Person owning of record Registrable Securities that have not been sold to the public or any assignee of record of such Registrable Securities in accordance with Section 2.9 hereof.

(l) "***Initial Offering***" means the Company's first firm commitment underwritten public offering of its Common Stock registered under the Securities Act.

(m) "***Major Investor***" means any Investor that, individually or together with such Investor's Affiliates, holds at least 3,250,000 shares of Preferred Stock or shares of Common Stock issued upon conversion thereof (as adjusted for any stock split, stock dividend, combination, or other recapitalization or reclassification effected after the date hereof).

(n) "***Person***" means any individual, corporation, partnership, trust, limited liability company, association or other entity.

(o) "***Register***," "***registered***," and "***registration***" refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act, and the declaration or ordering of effectiveness of such registration statement or document.

(p) "***Registrable Securities***" means (a) Common Stock of the Company issuable or issued upon conversion of the Shares and Warrant Shares, (b) the Founders' Stock, *provided*, *however*, that for the purposes of Sections 2.2, 2.4 or 2.10 the Founders' Stock shall not be deemed Registrable Securities and the Founders shall not be deemed Holders, and (c) any Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, such above-described securities. Notwithstanding the foregoing, Registrable Securities shall not include any securities (i) sold by a Person to the public either pursuant to a registration statement or Rule 144 or (ii) sold in a private transaction in which the transferor's rights under Section 2 of this Agreement are not assigned.

(q) "***Registrable Securities then outstanding***" shall be the number of shares of the Company's Common Stock that are Registrable Securities and either (a) are then issued and outstanding or (b) are issuable pursuant to then exercisable or convertible securities.

(r) "***Registration Expenses***" means all expenses incurred by the Company in complying with Sections 2.2, 2.3 and 2.4, including, without limitation, all registration and filing fees, printing expenses, fees and disbursements of counsel for the Company, reasonable fees and disbursements not to exceed forty thousand dollars ($40,000) of a single special counsel for the Holders, selected by a majority-in-interest of the selling Holders, blue sky fees and expenses and the expense of any special audits incident to or required by any such registration (but excluding the compensation of regular employees of the Company which shall be paid in any event by the Company).

(s) "***Required Director Approval***" means the approval, in a duly called and held meeting, or by unanimous written consent, or by other lawful decision or action by the Board, of at least a majority of the total number of then-serving members of the Board, and including in such approval the approval of at least one of the Preferred Directors (as defined in the Certificate).

(t) "***SEC***" or "***Commission***" means the Securities and Exchange Commission.

(u) "***Securities Act***" means the Securities Act of 1933, as amended.

(v) "***Selling Expenses***" means all underwriting discounts and selling commissions applicable to the sale.

(w) "***Shares***" means shares of the Company's Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, and Series G Preferred Stock (collectively, "***Preferred Stock***") held from time to time by the Investors and their permitted assigns.

(x) "***SPAC Transaction***" shall have the meaning set forth in the Certificate.

(y) "***Special Registration Statement***" means (i) a registration statement relating to any employee benefit plan or (ii) with respect to any corporate reorganization or transaction under Rule 145 of the Securities Act, any registration statements related to the issuance or resale of securities issued in such a transaction or (iii) a registration related to stock issued upon conversion of debt securities.

(z) "***T. Rowe Price***" means T. Rowe Price Associates, Inc., and any successor or affiliated registered investment advisor to the T. Rowe Price Investors.

(aa) "***T. Rowe Price Investor***" means any Purchaser that is advised or sub-advised by T. Rowe Price.

(bb) "***Warrant Shares***" means (i) the warrants to purchase the Company's Series D Preferred Stock issued pursuant to the that certain Preferred Stock and Warrant Purchase Agreement dated July 6, 2015, and (ii) the warrants to purchase the Company's Series E Preferred Stock issued pursuant to the that certain Note and Warrant Purchase Agreement dated June 5, 2017, held from time to time by the Investors and their permitted assigns.

2. REGISTRATION; RESTRICTIONS ON TRANSFER.

2.1 Restrictions on Transfer.

(a) Each Holder agrees not to make any disposition of all or any portion of the Shares or Registrable Securities unless and until:

(i) there is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with such registration statement; or

(ii) (A) The transferee has agreed in writing to be bound by the terms of this Agreement, (B) such Holder shall have notified the Company of the proposed disposition and shall have furnished the Company with a detailed statement of the circumstances surrounding the proposed disposition, and (C) if reasonably requested by the Company, such Holder shall have furnished the Company with an opinion of counsel, reasonably satisfactory to the Company, that such disposition will not require registration of such shares under the Securities Act. It is agreed that the Company will not require opinions of counsel for transactions made pursuant to Rule 144, except in unusual circumstances. After the Initial Offering or a

SPAC Transaction, the Company will not require any transferee pursuant to Rule 144 to be bound by the terms of this Agreement if the shares so transferred do not remain Registrable Securities hereunder following such transfer.

(b) Notwithstanding the provisions of Section 2.1(a), no such restriction shall apply to a transfer by a Holder that is (A) a partnership transferring to its partners or former partners in accordance with partnership interests, (B) a corporation transferring to a wholly-owned subsidiary or a parent corporation that owns all of the capital stock of the Holder, (C) a limited liability company transferring to its members or former members in accordance with their interest in the limited liability company, (D) an individual transferring to the Holder's family member or trust for the benefit of an individual Holder, (E) transferring to an Affiliate of such Holder or (F) an entity transferring to any successor of such Holder by merger or consolidation, or any Person to which, at the same time, substantially all the business and assets of such Holder are being sold, or any Person that is a professional investment entity for the purpose of winding up or restructuring some or all of such Holder's investment portfolio (whether in a particular industry sector or segment or as part of liquidating its legacy positions); *provided*, that in each case the transferee will agree in writing to be subject to the terms of this Agreement to the same extent as if he were an original Holder hereunder. For the avoidance of doubt, a customary arrangement in connection with the deposit of Registrable Securities in a non-margin custodial account shall not be deemed a sale, transfer or pledge for purposes of this Agreement so long as such registrable securities are in certificated form (it being understood that the Company may require the exchange of any such certificated securities for book-entry shares upon the Initial Offering or SPAC Transaction).

(c) Each certificate representing Shares or Registrable Securities shall be stamped or otherwise imprinted with legends substantially similar to the following (in addition to any legend required under applicable state securities laws):

> THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "***ACT***") AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER THE ACT OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY AND ITS COUNSEL THAT SUCH REGISTRATION IS NOT REQUIRED.
>
> THE SALE, PLEDGE, HYPOTHECATION OR TRANSFER OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO THE TERMS AND CONDITIONS OF A CERTAIN AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT BY AND BETWEEN THE STOCKHOLDER AND THE COMPANY. COPIES OF SUCH AGREEMENT MAY

BE OBTAINED UPON WRITTEN REQUEST TO THE SECRETARY OF THE COMPANY.

(d) The Company shall be obligated to reissue promptly unlegended certificates at the request of any Holder thereof if the Company has completed the Initial Offering or a SPAC Transaction and the Holder shall have obtained an opinion of counsel (which counsel may be counsel to the Company) reasonably acceptable to the Company (it being understood that internal securities counsel of Fidelity or T. Rowe Price shall be deemed acceptable for transfers by any Fidelity Investor or T. Rowe Price Investor, respectively) to the effect that the securities proposed to be disposed of may lawfully be so disposed of without registration, qualification and legend, *provided*, that the second legend listed above shall be removed only at such time as the Holder of such certificate is no longer subject to any restrictions hereunder.

(e) Any legend endorsed on an instrument pursuant to applicable state securities laws and the stop-transfer instructions with respect to such securities shall be removed upon receipt by the Company of an order of the appropriate blue sky authority authorizing such removal.

2.2 Demand Registration.

(a) Subject to the conditions of this Section 2.2, if the Company shall receive a written request from the Holders of at least twenty five percent (25%) of the Registrable Securities (the "***Initiating Holders***") that the Company file a registration statement under the Securities Act covering the registration of at least twenty five percent (25%) of the Registrable Securities then outstanding (or a lesser percent if the anticipated aggregate offering price, net of underwriting discounts and commissions, would exceed $7,500,000), then the Company shall, within thirty (30) days of the receipt thereof, give written notice of such request to all Holders, and subject to the limitations of this Section 2.2, (i) file, as expeditiously as reasonably possible, and in any event no later than one hundred (100) days following the receipt of such written request, a registration statement pursuant to the Securities Act covering all Registrable Securities that all Holders request to be registered, and (ii) effect, as expeditiously as reasonably possible, the registration under the Securities Act of all Registrable Securities that all Holders request to be registered.

(b) If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to this Section 2.2 or any request pursuant to Section 2.4 and the Company shall include such information in the written notice referred to in Section 2.2(a) or Section 2.4(a), as applicable. In such event, the right of any Holder to include its Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by the Holders of a majority of the Registrable Securities held by all Initiating Holders (which underwriter or underwriters shall be reasonably

acceptable to the Company). Notwithstanding any other provision of this Section 2.2 or Section 2.4, if the underwriter advises the Company that marketing factors require a limitation of the number of securities to be underwritten (including Registrable Securities) then the Company shall so advise all Holders of Registrable Securities that would otherwise be underwritten pursuant hereto, and the number of shares that may be included in the underwriting shall be allocated to the Holders of such Registrable Securities on a *pro rata* basis based on the number of Registrable Securities held by all such Holders (including the Initiating Holders**)**; *provided*, *however*, that in any offering other than the Initial Offering or a SPAC Transaction, the number of shares of Registrable Securities to be included in such underwriting and registration shall not be reduced unless all other securities of the Company are first entirely excluded from the underwriting and registration. Any Registrable Securities excluded or withdrawn from such underwriting shall be withdrawn from the registration.

(c) The Company shall not be required to effect a registration pursuant to this Section 2.2:

(i) prior to the earlier of (A) the third anniversary of the date of this Agreement or (B) of the expiration of the restrictions on transfer set forth in Section 2.11 following the Initial Offering or SPAC Transaction;

(ii) after the Company has effected two (2) registrations pursuant to this Section 2.2, and such registrations have been declared or ordered effective;

(iii) during the period starting with the date of filing of, and ending on the date one hundred eighty (180) days following the effective date of the registration statement pertaining to a public offering, other than pursuant to a Special Registration Statement; *provided* that the Company makes reasonable good faith efforts to cause such registration statement to become effective;

(iv) if within thirty (30) days of receipt of a written request from Initiating Holders pursuant to Section 2.2(a), the Company gives notice to the Holders of the Company's intention to file a registration statement for a public offering, other than pursuant to a Special Registration Statement, within ninety (90) days;

(v) if the Company shall furnish to Holders requesting a registration statement pursuant to this Section 2.2 a certificate signed by the Chairman of the Board stating that in the good faith judgment of the Board, it would be seriously detrimental to the Company and its stockholders for such registration statement to be effected at such time, in which event the Company shall have the right to defer such filing for a period of not more than one hundred twenty (120) days after receipt of the request of the Initiating Holders; *provided* that such right to delay a request shall be exercised by the Company not more than twice in any twelve (12) month period; *provided further* that the Company shall not register any securities for its own account or that of any other stockholder during such one hundred twenty (120) day period other than pursuant to a Special Registration Statement;

(vi) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Section 2.4 below; or

(vii) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance.

2.3 Piggyback Registrations. The Company shall notify all Holders of Registrable Securities in writing at least twenty (20) days prior to the filing of any registration statement under the Securities Act for purposes of a public offering of securities of the Company (including, but not limited to, registration statements relating to secondary offerings of securities of the Company, but excluding Special Registration Statements) and will afford each such Holder an opportunity to include in such registration statement all or part of such Registrable Securities held by such Holder. Each Holder desiring to include in any such registration statement all or any part of the Registrable Securities held by it shall, within twenty (20) days after the above-described notice from the Company, so notify the Company in writing. Such notice shall state the intended method of disposition of the Registrable Securities by such Holder. If a Holder decides not to include all of its Registrable Securities in any registration statement thereafter filed by the Company, such Holder shall nevertheless continue to have the right to include any Registrable Securities in any subsequent registration statement or registration statements as may be filed by the Company with respect to offerings of its securities, all upon the terms and conditions set forth herein.

(a) Underwriting. If the registration statement of which the Company gives notice under this Section 2.3 is for an underwritten offering, the Company shall so advise the Holders of Registrable Securities. In such event, the right of any such Holder to include Registrable Securities in a registration pursuant to this Section 2.3 shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their Registrable Securities through such underwriting shall enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by the Company. Notwithstanding any other provision of this Agreement, if the Company determines in good faith, based on consultation with the underwriter, that marketing factors require a limitation of the number of shares to be underwritten, the number of shares that may be included in the underwriting shall be allocated, first, to the Company; second, to the Holders on a *pro rata* basis based on the total number of Registrable Securities held by the Holders; and third, to any stockholder of the Company (other than a Holder) on a *pro rata* basis; *provided*, *however*, that no such reduction shall reduce the amount of securities of the selling Holders included in the registration below thirty percent (30%) of the total amount of securities requested to be included by the Holders in such registration, unless such offering is the Initial Offering or SPAC Transaction and such registration does not include shares of any other selling stockholders, in which event any or all of the Registrable Securities of the Holders may be excluded in accordance with the immediately preceding clause. In no event will shares of any other selling stockholder be included in such registration that would reduce the number of shares which may

be included by Holders without the written consent of Holders of not less than a majority of the Registrable Securities proposed to be sold in the offering. If any Holder disapproves of the terms of any such underwriting, such Holder may elect to withdraw therefrom by written notice to the Company and the underwriter, delivered at least ten (10) business days prior to the effective date of the registration statement. Any Registrable Securities excluded or withdrawn from such underwriting shall be excluded and withdrawn from the registration. For any Holder which is a partnership, limited liability company or corporation, the partners, retired partners, members, retired members and stockholders of such Holder, or the estates and family members of any such partners, retired partners, members and retired members and any trusts for the benefit of any of the foregoing Person shall be deemed to be a single "Holder," and any *pro rata* reduction with respect to such "Holder" shall be based upon the aggregate amount of shares carrying registration rights owned by all entities and individuals included in such "Holder," as defined in this sentence.

(b) Right to Terminate Registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 2.3 whether or not any Holder has elected to include securities in such registration, and will promptly notify any Holder that has elected to include shares in such registration of such termination or withdrawal. The Registration Expenses of such withdrawn registration shall be borne by the Company in accordance with Section 2.5.

2.4 Form S-3 Registration. In case the Company shall receive from any Holder or Holders of Registrable Securities a written request or requests that the Company effect a registration on Form S-3 (or any successor to Form S-3) or any similar short-form registration statement and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Holder or Holders, the Company will:

(a) promptly give written notice of the proposed registration, and any related qualification or compliance, to all other Holders of Registrable Securities; and

(b) (i) as soon as practicable, and in any event no later than forty-five (45) days following the receipt of such written request, file a registration statement on Form S-3 pursuant to the Securities Act covering all Registrable Securities that all Holders request to be registered, and (ii) as soon as practicable, effect such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Holder's or Holders' Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Holder or Holders joining in such request as are specified in a written request given within twenty (20) days after receipt of such written notice from the Company; *provided, however*, that the Company shall not be obligated to effect any such registration, qualification or compliance pursuant to this Section 2.4:

(i) if Form S-3 is not available for such offering by the Holders, or

(ii) if the Holders, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities and

such other securities (if any) at an aggregate price to the public of less than three million dollars ($3,000,000), or

(iii) if within thirty (30) days of receipt of a written request from any Holder or Holders pursuant to this Section 2.4, the Company gives notice to such Holder or Holders of the Company's intention to make a public offering within ninety (90) days, other than pursuant to a Special Registration Statement;

(iv) if the Company shall furnish to the Holders a certificate signed by the Chairman of the Board stating that in the good faith judgment of the Board, it would be seriously detrimental to the Company and its stockholders for such Form S-3 registration to be effected at such time, in which event the Company shall have the right to defer the filing of the Form S-3 registration statement for a period of not more than ninety (90) days after receipt of the request of the Holder or Holders under this Section 2.4; *provided*, that such right to delay a request shall be exercised by the Company not more than once in any twelve (12) month period; and *provided further* that the Company shall not register any securities for its own account or that of any other stockholder during such ninety (90) day period other than pursuant to a Special Registration Statement, or

(v) if the Company has, within the twelve (12) month period preceding the date of such request, already effected two (2) registrations on Form S-3 for the Holders pursuant to this Section 2.4, or

(vi) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance.

(c) Subject to the foregoing, the Company shall file a Form S-3 registration statement covering the Registrable Securities and other securities so requested to be registered as soon as practicable after receipt of the requests of the Holders. Registrations effected pursuant to this Section 2.4 shall not be counted as demands for registration or registrations effected pursuant to Section 2.2. All Registration Expenses incurred in connection with registrations requested pursuant to this Section 2.4 after the first two (2) registrations shall be paid by the selling Holders *pro rata* in proportion to the number of shares to be sold by each such Holder in any such registration.

2.5 Expenses of Registration. Except as specifically provided herein, all Registration Expenses incurred in connection with any registration, qualification or compliance pursuant to Section 2.2, 2.3 or 2.4 herein shall be borne by the Company. All Selling Expenses shall be borne by the holders of the securities so registered *pro rata* on the basis of the number of shares so registered. The Company shall not, however, be required to pay for expenses of any registration proceeding begun pursuant to Section 2.2 or 2.4, the request of which has been subsequently withdrawn by the Initiating Holders unless (a) the withdrawal is based upon material adverse information concerning the Company of which the Initiating Holders were not aware at the time of such request or (b) the Holders of a majority of Registrable Securities agree to deem such registration to have been effected as of the date of such withdrawal for purposes of

determining whether the Company shall be obligated pursuant to Section 2.2(c) or 2.4(b)(v), as applicable, to undertake any subsequent registration, in which event such right shall be forfeited by all Holders. If the Holders are required to pay the Registration Expenses, such expenses shall be borne by the holders of securities (including Registrable Securities) requesting such registration in proportion to the number of shares for which registration was requested. If the Company is required to pay the Registration Expenses of a withdrawn offering pursuant to clause (a) above, then such registration shall not be deemed to have been effected for purposes of determining whether the Company shall be obligated pursuant to Section 2.2(c) or 2.4(b)(v), as applicable, to undertake any subsequent registration.

2.6 Obligations of the Company. Whenever required to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) prepare and file with the SEC a registration statement with respect to such Registrable Securities and use all reasonable efforts to cause such registration statement to become effective, and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective for up to one hundred twenty (120) days or, if earlier, until the Holder or Holders have completed the distribution related thereto; *provided, however*, that at any time, upon written notice to the participating Holders and for a period not to exceed sixty (60) days thereafter (the "***Suspension Period***"), the Company may delay the filing or effectiveness of any registration statement or suspend the use or effectiveness of any registration statement (and the Holders hereby agree not to offer or sell any Registrable Securities pursuant to such registration statement during the Suspension Period) if the Company reasonably believes that there is or may be in existence material nonpublic information or events involving the Company, the failure of which to be disclosed in the prospectus included in the registration statement could result in a Violation (as defined below). In the event that the Company shall exercise its right to delay or suspend the filing or effectiveness of a registration hereunder, the applicable time period during which the registration statement is to remain effective shall be extended by a period of time equal to the duration of the Suspension Period. The Company may extend the Suspension Period for an additional consecutive sixty (60) days with the consent of the holders of a majority of the Registrable Securities registered under the applicable registration statement, which consent shall not be unreasonably withheld. No more than two (2) such Suspension Periods will occur in any twelve (12) month period. In no event will any Suspension Period, when taken together with all prior extensions thereof, exceed 120 days in the aggregate. If so directed by the Company, all Holders registering shares under such registration statement shall (i) not offer to sell any Registrable Securities pursuant to the registration statement during the period in which the delay or suspension is in effect after receiving notice of such delay or suspension; and (ii) use their best efforts to deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Holders' possession, of the prospectus relating to such Registrable Securities current at the time of receipt of such notice. Notwithstanding the foregoing, the Company shall not be required to file, cause to become effective or maintain the effectiveness of any registration statement other than a registration statement on Form S-3 that contemplates a distribution of securities on a delayed or continuous basis pursuant to Rule 415 under the Securities Act.

(b) Prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement for the period set forth in subsection (a) above.

(c) Furnish to the Holders such number of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them.

(d) Use its reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders; *provided*, that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions.

(e) In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter(s) of such offering. Each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement.

(f) Notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing. The Company will use commercially reasonable efforts to amend or supplement such prospectus in order to cause such prospectus not to include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing.

(g) Use its commercially reasonable efforts to furnish, on the date that such Registrable Securities are delivered to the underwriters for sale, if such securities are being sold through underwriters, (i) an opinion, dated as of such date, of the counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters, if any, and (ii) a letter, dated as of such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering addressed to the underwriters.

(h) Provide a transfer agent and registrar for all Registrable Securities registered pursuant to this Agreement and provide a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration.

(i) Promptly make available for inspection by the selling Holders, any underwriter(s) participating in any disposition pursuant to such registration statement, and any attorney or accountant or other agent retained by any such underwriter or selected by the selling Holders, all financial and other records, pertinent corporate documents, and properties of the Company, and cause the Company's officers, directors, employees, and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant, or agent, in each case, as necessary or advisable to verify the accuracy of the information in such registration statement and to conduct appropriate due diligence in connection therewith.

(j) Notify each selling Holder, promptly after the Company receives notice thereof, of the time when such registration statement has been declared effective or a supplement to any prospectus forming a part of such registration statement has been filed.

(k) After such registration statement becomes effective, notify each selling Holder of any request by the SEC that the Company amend or supplement such registration statement or prospectus.

In addition, the Company shall ensure that, at all times after any registration statement covering a public offering of securities of the Company under the Securities Act shall have become effective, its insider trading policy shall provide that the Company's directors may implement a trading program under Rule 10b5-1 of the Exchange Act.

2.7 Delay of Registration; Furnishing Information.

(a) No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any such registration as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 2.

(b) It shall be a condition precedent to the obligations of the Company to take any action pursuant to Section 2.2, 2.3 or 2.4 that the selling Holders shall furnish to the Company such information regarding themselves, the Registrable Securities held by them and the intended method of disposition of such securities as shall be required to effect the registration of their Registrable Securities.

(c) The Company shall have no obligation with respect to any registration requested pursuant to Section 2.2 or Section 2.4 if the number of shares or the anticipated aggregate offering price of the Registrable Securities to be included in the registration does not equal or exceed the number of shares or the anticipated aggregate offering price required to originally trigger the Company's obligation to initiate such registration as specified in Section 2.2 or Section 2.4, whichever is applicable.

2.8 Indemnification. In the event any Registrable Securities are included in a registration statement under Sections 2.2, 2.3 or 2.4:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, the partners, members, officers and directors of each Holder, any underwriter (as defined in the Securities Act) for such Holder and each Person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages, or liabilities (joint or several) to which they may become subject under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (collectively a "***Violation***") by the Company: (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement or incorporated reference therein, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law in connection with the offering covered by such registration statement; and the Company will reimburse each such Holder, partner, member, officer, director, underwriter or controlling Person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; *provided*, *however*, that the indemnity agreement contained in this Section 2.8(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Company, which consent shall not be unreasonably withheld, nor shall the Company be liable in any such case for any such loss, claim, damage, liability or action to the extent that it arises out of or is based upon a Violation which occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by such Holder, partner, member, officer, director, underwriter or controlling Person of such Holder.

(b) To the extent permitted by law, each Holder will, if Registrable Securities held by such Holder are included in the securities as to which such registration qualifications or compliance is being effected, severally and not jointly, indemnify and hold harmless the Company, each of its directors, its officers and each Person, if any, who controls the Company within the meaning of the Securities Act, any underwriter and any other Holder selling securities under such registration statement or any of such other Holder's partners, directors or officers or any Person who controls such Holder, against any losses, claims, damages or liabilities to which the Company or any such director, officer, controlling Person, underwriter or other such Holder, or partner, director, officer or controlling Person of such other Holder may become subject under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages or liabilities (or actions in respect thereto) arise out of or are based upon any of the following statements: (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement or incorporated by reference therein, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements

thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Securities Act (collectively, a "***Holder Violation***"), in each case to the extent (and only to the extent) that such Holder Violation occurs in reliance upon and in conformity with written information furnished by such Holder under an instrument duly executed by such Holder and stated to be specifically for use in connection with such registration; and each such Holder will reimburse any legal or other expenses reasonably incurred by the Company or any such director, officer, controlling Person, underwriter or other Holder, or partner, officer, director or controlling Person of such other Holder in connection with investigating or defending any such loss, claim, damage, liability or action if it is judicially determined that there was such a Holder Violation; *provided*, *however*, that the indemnity agreement contained in this Section 2.8(b) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; *provided further*, that in no event shall any indemnity under this Section 2.8 exceed the net proceeds from the offering received by such Holder.

(c) Promptly after receipt by an indemnified party under this Section 2.8 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 2.8, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; *provided*, *however*, that an indemnified party shall have the right to retain its own counsel, with the fees and expenses thereof to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall relieve such indemnifying party of any liability to the indemnified party under this Section 2.8 to the extent, and only to the extent, prejudicial to its ability to defend such action, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 2.8.

(d) If the indemnification provided for in this Section 2.8 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any losses, claims, damages or liabilities referred to herein, the indemnifying party, in lieu of indemnifying such indemnified party thereunder, shall to the extent permitted by applicable law contribute to the amount paid or payable by such indemnified party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the Violation(s) or Holder Violation(s) that resulted in such loss, claim, damage or liability, as well as any other relevant equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by a court of law by reference to, among other things,

whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission; *provided*, that in no event shall any contribution by a Holder hereunder exceed the net proceeds from the offering received by such Holder.

(e) The obligations of the Company and Holders under this Section 2.8 shall survive completion of any offering of Registrable Securities in a registration statement and, with respect to liability arising from an offering to which this Section 2.8 would apply that is covered by a registration filed before termination of this Agreement, such termination. No indemnifying party, in the defense of any such claim or litigation, shall, except with the consent of each indemnified party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect to such claim or litigation.

2.9 Assignment of Registration Rights. The rights to cause the Company to register Registrable Securities pursuant to this Section 2 may be assigned by a Holder to a transferee or assignee of Registrable Securities (for so long as such shares remain Registrable Securities) that (a) is a subsidiary, parent, general partner, limited partner, retired partner, director, former director, member or retired member of a Holder that is a corporation, partnership or limited liability company, (b) is a Holder's family member or trust for the benefit of an individual Holder, (c) acquires at least 250,000 shares of Registrable Securities (as adjusted for stock splits and combinations) or (d) is an Affiliate of such Holder; *provided*, *however*, (i) the transferor shall, within ten (10) days after such transfer, furnish to the Company written notice of the name and address of such transferee or assignee and the securities with respect to which such registration rights are being assigned and (ii) such transferee shall agree to be subject to all restrictions set forth in this Agreement.

2.10 Limitation on Subsequent Registration Rights. Other than as provided in Section 5.10, after the date of this Agreement, the Company shall not enter into any agreement with any holder or prospective holder of any securities of the Company that would grant such holder rights to demand the registration of shares of the Company's capital stock, or to include such shares in a registration statement that would reduce the number of shares includable by the Holders.

2.11 Market Stand-Off Agreement. Each Holder hereby agrees that such Holder shall not sell, dispose of, transfer, make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a sale, any shares of Common Stock (or other securities) of the Company held immediately before the effective date of the registration statement for the Initial Offering or SPAC Transaction by such Holder during the 180-day period following the effective date of the Initial Offering or SPAC Transaction (or such longer period as the underwriters or the Company shall request in order to facilitate compliance with applicable FINRA rules). The foregoing provisions of this Section 2.11 (i) shall apply only to the Initial Offering or SPAC Transaction, (ii) shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement or to securities acquired in the

registration or thereafter in open market transactions, (iii) shall not apply to the establishment of a trading plan pursuant to Rule 10b5-1, so long as such plan does not permit transfers during the restricted period, and (iv) shall be applicable to the Holders only if all officers, directors, and stockholders individually owning more than one percent (1%) of the Company's outstanding Common Stock (after giving effect to conversion into Common Stock of all outstanding Preferred Stock) are subject to the same restrictions. Any discretionary waiver or termination of the restrictions of any or all of such agreements by the Company or the underwriters shall apply pro rata to all Holders subject to such agreements, based on the number of shares subject to such agreements. Each Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section 2.11 or that are necessary to give further effect thereto. The underwriters in connection with such registration are intended third-party beneficiaries of this Section 2.11 and shall have the right, power and authority to enforce the provisions hereof as though they were a party hereto.

2.12 Agreement to Furnish Information. Each Holder agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the managing underwriters that are consistent with the Holder's obligations under Section 2.11 or that are necessary to give further effect thereto. In addition, if requested by the Company or the representative of the underwriters of Common Stock (or other securities) of the Company, each Holder shall provide, within ten (10) days of such request, such information as may be required by the Company or such representative in connection with the completion of any public offering of the Company's securities pursuant to a registration statement filed under the Securities Act. The obligations described in Section 2.11 and this Section 2.12 shall not apply to a Special Registration Statement. In order to enforce the foregoing covenant, the Company may impose stop-transfer instructions with respect to such shares of Common Stock (or other securities) until the end of such period. Each Holder agrees that any transferee of any shares of Registrable Securities shall be bound by Sections 2.11 and 2.12. The underwriters of the Company's stock are intended third party beneficiaries of Sections 2.11 and 2.12 and shall have the right, power and authority to enforce the provisions hereof as though they were a party hereto.

2.13 Rule 144 Reporting. With a view to making available to the Holders the benefits of certain rules and regulations of the SEC which may permit the sale of the Registrable Securities to the public without registration, the Company agrees to use its best efforts to:

(a) Make and keep public information available, as those terms are understood and defined in SEC Rule 144 or any similar or analogous rule promulgated under the Securities Act, at all times after the effective date of the first registration filed by the Company for an offering of its securities to the general public;

(b) File with the SEC, in a timely manner, all reports and other documents required of the Company under the Exchange Act; and

(c) So long as a Holder owns any Registrable Securities, furnish to such Holder forthwith upon request: a written statement by the Company as to its compliance with the reporting requirements of said Rule 144 of the Securities Act, and of the Exchange Act (at any

time after it has become subject to such reporting requirements); a copy of the most recent annual or quarterly report of the Company filed with the Commission; and such other reports and documents as a Holder may reasonably request in connection with availing itself of any rule or regulation of the SEC allowing it to sell any such securities without registration.

2.14 Termination of Registration Rights. The right of any Holder to request registration or inclusion of Registrable Securities in any registration pursuant to Section 2.2, Section 2.3, or Section 2.4 shall terminate upon the earlier of: (i) the date three (3) years following the Initial Offering or a SPAC Transaction; or (ii) such time as such Holder holds less than 1% of the Company's outstanding Common Stock (treating all shares of Preferred Stock on an as converted basis), the Company has completed the Initial Offering or a SPAC Transaction and all Registrable Securities of the Company issuable or issued upon conversion of the Shares held by and issuable to such Holder (and its Affiliates) may be sold pursuant to Rule 144 during any ninety (90) day period. Upon such termination, such shares shall cease to be "Registrable Securities" hereunder for all purposes.

3. COVENANTS OF THE COMPANY.

3.1 Basic Financial Information and Reporting.

(a) The Company will maintain true books and records of account in which full and correct entries will be made of all its business transactions pursuant to a system of accounting established and administered in accordance with generally accepted accounting principles consistently applied (except as noted therein), and will set aside on its books all such proper accruals and reserves as shall be required under generally accepted accounting principles consistently applied.

(b) As soon as practicable after the end of each fiscal year of the Company, and in any event within one hundred fifty (150) days thereafter, the Company will furnish each Investor a balance sheet of the Company, as at the end of such fiscal year, a statement of income and a statement of cash flows of the Company, for such year, and a statement of stockholders' equity as of the end of such year, all prepared in accordance with generally accepted accounting principles consistently applied (except as noted therein or as disclosed to the recipients thereof) and setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail. Such financial statements shall be audited and certified by independent public accountants selected by the Board. Additionally, the Company will furnish such Investor by January 31 the Company's unaudited financial statements for such prior year prepared in accordance with generally accepted accounting principles consistently applied (except as noted therein or as disclosed to the recipients thereof), with the exception that no notes need be attached to such statements and year-end audit adjustments may not have been made.

(c) To each Major Investor, the Company will furnish, as soon as practicable after the end of the first, second and third quarterly accounting periods in each fiscal year of the Company and for each month, and in any event within thirty (30) days thereafter, a consolidated balance sheet of the Company as of the end of each such quarterly and monthly period, and a statement of income and a statement of cash flows of the Company for such period and for the

current fiscal year to date, prepared in accordance with generally accepted accounting principles consistently applied (except as noted therein or as disclosed to the recipients thereof).

(d) The Company will furnish each Major Investor, as soon as practicable after the end of the first, second and third quarterly accounting periods in each fiscal year of the Company, a statement showing the number of shares of each class and series of capital stock and securities convertible into or exercisable for shares of capital stock outstanding at the end of the period, the Common Stock issuable upon conversion or exercise of any outstanding securities convertible or exercisable for Common Stock and the exchange ratio or exercise price applicable thereto, and the number of shares of issued stock options and stock options not yet issued but reserved for issuance, if any, all in sufficient detail as to permit a stockholder to calculate its percentage equity ownership in the Company and the Company's current 409A common stock valuation appraisal.

3.2 Inspection Rights. Each Major Investor shall have the right to visit and inspect any of the properties of the Company or any of its subsidiaries, and to discuss the affairs, finances and accounts of the Company or any of its subsidiaries with its officers, and to review such information as is reasonably requested all at such reasonable times and as often as may be reasonably requested; *provided*, *however*, that the Company shall not be obligated under this Section 3.2 with respect to a Competitor or with respect to information which the Board determines in good faith is confidential or attorney-client privileged and should not, therefore, be disclosed. The Company shall be reasonably responsive to requests for information from the Major Investors relating to issues that may impact auditor independence rules applicable to the Major Investors.

3.3 Confidentiality of Records. Each Investor agrees to use the same degree of care as such Investor uses to protect its own confidential information to keep confidential any information furnished to such Investor pursuant to Section 3.1 or Section 3.2 hereto (so long as such information is not in the public domain due to such Investor's breach of this Section 3.3), except that such Investor may disclose such proprietary or confidential information (i) to its attorneys, accountants, consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company and who have signed confidentiality agreements containing, or are otherwise bound by, confidentiality obligations at least as restrictive as those contained herein; (ii) to any prospective purchaser of any Registrable Securities from such Investor, if the Board reasonably determines in advance of such disclosure that such prospective purchaser is not a Competitor and such prospective purchaser agrees to be bound by the provisions of this Section 3.3; (iii) to any Affiliate, partner, member, stockholder, wholly owned subsidiary, or potential partner, member or stockholder of such Investor in the ordinary course of business, provided that such Investor informs such Person that such information is confidential and directs such Person to maintain the confidentiality of such information, and provided further that such Person is not a Competitor, as determined by the Board; (iv) as may otherwise be required by law, provided that, if permitted by law, the Investor promptly notifies the Company in advance of such disclosure and takes reasonable steps to minimize the extent of any such required disclosure; or (v) at such time as it enters the public domain through no fault of such Investor. For the avoidance of doubt and notwithstanding

anything herein to the contrary, (y) so long as Fidelity and each Fidelity Investor does not breach this Section 3.3, nothing contained in this Section 3.3 shall in any way restrict or impair the ability of any Fidelity Investor to disclose confidential information to Fidelity (or vice versa), or restrict or impair the obligations of Fidelity to report the investment of its advisory clients (as Investors) in the Company in accordance with applicable laws and regulations or pre-existing internal policies, without any requirement of prior notice to the Company, and (z) so long as T. Rowe Price and each T. Rowe Price Investor does not breach this Section 3.3, nothing contained in this Section 3.3 shall in any way restrict or impair the ability of any T. Rowe Price Investor to disclose confidential information to T. Rowe Price (or vice versa), or restrict or impair the obligations of T. Rowe Price to report the investment of its advisory clients (as Investors) in the Company in accordance with applicable laws and regulations or pre-existing internal policies, without any requirement of prior notice to the Company. This Section 3.3 shall survive any termination of this Agreement.

3.4 Reservation of Common Stock. The Company will at all times reserve and keep available, solely for issuance and delivery upon the conversion of the Preferred Stock, all Common Stock issuable from time to time upon such conversion.

3.5 Proprietary Information and Inventions Assignment Agreement. At or prior to the date of this Agreement the Company shall have required all current and former employees, officers and consultants, including the Founders, to execute and deliver the Company's standard form Proprietary Information and Inventions Assignment Agreement. Following the date of this Agreement, the Company shall require any individual who becomes an employee, officer or consultant of the Company to execute and deliver the Company's standard form Proprietary Information and Inventions Assignment Agreement, provided that the Board may amend or modify such form with the Required Director Approval.

3.6 Right to Conduct Activities. The Company and each stockholder party hereto hereby agree and acknowledge that certain of the Investors (together with their Affiliates) are in the business of venture capital investing, and as such invest in numerous portfolio companies, some of which may be deemed competitive with the Company's business (as currently conducted or as currently proposed to be conducted). The Company hereby agrees that, to the extent permitted under applicable law, no such Investor shall be liable to the Company for any claim arising out of, or based upon, (i) the investment by any such Investor in any entity competitive with the Company, or (ii) actions taken by any partner, officer or other representative of such Investor to assist any such competitive company, whether or not such action was taken as a member of the board of directors of such competitive company or otherwise, and whether or not such action has a detrimental effect on the Company; *provided*, *however*, that the foregoing shall not relieve (x) any of the Investors from liability associated with the unauthorized disclosure of the Company's confidential information, or (y) any director or officer of the Company from any liability associated with his or her fiduciary duties to the Company. Further, the Company, each Investor, and each other stockholder party hereto acknowledge and agree that certain of the Investors or the Affiliates of such Investors (each, a "***Strategic Investor***") may presently have, or may engage in the future in, internal development programs, or may receive information from third parties that relates to, and may develop and commercialize products independently or in

cooperation with such third parties, that are similar to or that are directly or indirectly competitive with, the Company's development programs, products or services. Accordingly, the exercise by such Strategic Investor of any rights under this Agreement or any other agreement related to the transactions contemplated by this Agreement (collectively, the "***Transaction Agreements***"), shall not in any way preclude or restrict such Strategic Investor from conducting any development program, commercializing any product or service or otherwise engaging in any enterprise, whether or not such development program, product, service or enterprise, competes with those of the Company, so long as such activities do not result in a violation of the confidentiality provisions of this Agreement or any other Transaction Agreement. Nothing herein or in any other Transaction Agreement shall be construed to impose on such Strategic Investor any restriction, duty or obligation other than as expressly set forth herein or therein.

3.7 U.S. Real Property Holding Corporation. The Company shall provide prompt notice to each Major Investor following any "determination date" (as defined in Treasury Regulations §1.897-2(c)(1)) on which the Company becomes a United States real property holding corporation. In addition, upon a written request by a Major Investor, the Company shall provide such Major Investor, no more than once in any 12 month period, with a written statement informing such Major Investor whether such Major Investor's interest in the Company constitutes United States real property interest. The Company's determination shall comply with the requirements of Treasury Regulations §1.897-2(h)(1) or any successor regulation, and the Company shall provide timely notice to the Internal Revenue Service, in accordance with and to the extent required by Treasury Regulations §1.897-2(h)(2) or any successor regulation, that such statement has been made. The Company's written statement to such Major Investor shall be delivered to such Major Investor within ten (10) days of such Major Investor written request therefor.

3.8 Insurance. The Company shall use commercially reasonable efforts to maintain in full force and effect director and officer insurance, in such amounts and on such terms as may be approved by the Board, which insurance will cover officers and directors (and the director's affiliated fund, if applicable) in an amount of at least $3,000,000, which amount shall include fiduciary liability coverage in the amount of at least $1,000,000, and subject to the Board's approval, such director and officer insurance coverage will increase to at least $10,000,000 immediately prior to the Initial Offering or SPAC Transaction.

3.9 Stock Vesting. Unless otherwise approved by Required Director Approval, all stock options and other stock equivalents issued by the Company after the date of this Agreement to employees, directors, consultants and other service providers shall be subject to vesting as follows: (a) 25% of such stock shall vest at the end of the first year following either the date of issuance or such individual's services commencement date with the Company, provided the optionee is still providing services to the Company, (b) 75% of such stock shall vest monthly over the remaining three years, provided the optionee is still providing services to the Company and (c) all stock option grants or awards to Company executives (Vice President or above) will be subject to customary "double trigger" acceleration provisions providing for acceleration of vesting upon a termination without Cause within six (6) months following a Change In Control. "***Cause***" and "***Change In Control***" shall each be defined in written agreements by and between

the Company and such executive service providers with respect to such acceleration provisions. If employees are permitted to early exercise unvested options or are granted restricted stock awards, unless otherwise approved by the Required Director Approval, the repurchase option shall provide that upon termination of the employment of the stockholder, with or without cause, the Company or its assignee (to the extent permissible under any applicable securities law qualification) shall retain the option to repurchase at the original issuance price thereof any unvested shares held by such stockholder.

3.10 Reimbursement of Expenses. The Company will promptly reimburse all reasonable documented out-of-pocket costs and expenses incurred by non-employee members of the Board in attending Board meetings, attending any Board committee meetings, and performing the Company's business at the request of the Company consistent with the Company's travel policy in effect from time to time.

3.11 Board Meetings; Board Committees. The Board will meet no less than five (5) times per year calendar year, unless otherwise agreed by a vote of at least a majority of the Board. At least one Series D Director (as defined in the Certificate) shall have the right to serve on the Board's Audit Committee, Nominating and Governance Committee, and Compensation Committee and any other committee established by the Board.

3.12 Advisory Boards. All Board members will have the right, but not obligation, to attend, as an observer, all meetings of the Company's Scientific Advisory Board and other similar advisory boards, if applicable.

3.13 Matters Requiring Director Approval. The Company hereby covenants and agrees with each of the Investors that the Required Director Approval will be required for any of the following:

(a) Any actions that require the approval of the Requisite Holders (as defined in the Certificate) pursuant to Section 2(b) of Article V(B) of the Certificate;

(b) All Company budgets and operating plans;

(c) Any amendments to the Company's Amended and Restated 2008 Equity Incentive Plan, as amended (the "***Plan***"), including any increase or decrease in the number of shares reserved for issuance thereunder, any creation or amendment of any other Company equity incentive plans, and any stock or option grant in which the vesting term deviates from that set forth in Section 3.9; provided that any Required Director Approval for any matters set forth in this Section 3.13(c) shall also require the approval of at least two of the three directors elected solely by the holders of Series F Preferred Stock or Series D Preferred Stock pursuant to the Certificate;

(d) Any carve-out of any offering by the Company of Equity Securities (as defined in Section 4.1), other than those securities listed in Section 4.7, from the right of first refusal pursuant to Section 4;

(e) Any license of all or substantially all of the assets of the Company;

(f) Entering into any loan or making an advance to, or owning any stock or other securities of, any subsidiary or other corporation, partnership, or other entity unless it is wholly owned by the Company;

(g) Entering into any loan or making an advance to any Person, including, any employee or director, except advances and similar expenditures in the ordinary course of business or under the terms of an employee stock or option plan approved by the Board;

(h) Any action that guarantees any indebtedness, except for trade accounts of the Company or any subsidiary arising in the ordinary course of business;

(i) Making any investment other than in accordance with the investment policy approved by the Board;

(j) Incurring any aggregate indebtedness not already included in a budget that has been approved by Required Director Approval that is in excess of a threshold amount to be determined by the Board;

(k) Approving any material revisions to the then current business plan of the Company;

(l) Entering into or becoming a party to any material transaction with any Affiliate of the Company or any director, officer or employee of the Company or any "associate" (as defined in Rule 12b-2 promulgated under the Exchange Act) of any such Person;

(m) Hiring, firing, or changing the compensation of any executive officer of the Company (Vice President level and above);

(n) Any action that changes the principal business of the Company, makes any material change in the Company's then-current line(s) of business or business model, or involves the entry into any new line(s) of business, or exit from any then-current line of business;

(o) Sales, transfer, licenses, pledges or encumbrances of technology or intellectual property, other than licenses granted in the ordinary course of business;

(p) Material investments into, or entrance into any joint venture with, or acquisition of any third party or acquisition of all or substantially all of any third party's assets; and

(q) Material actions related to the preparation or filing for the Initial Offering or the consummation of a SPAC Transaction.

3.14 Publicity.

(a) The Company agrees not to (i) issue any press release that uses the name of Viking Global Opportunities Illiquid Investments Sub-Master LP or its Affiliates ("***Viking Global***"), or (ii) make any other statement communication to any third party (other than to its legal, accounting and financial advisors, and other than to potential investors or acquirers under a duty of confidentiality) that uses the name of Viking Global without first allowing Viking Global to review and comment on such press release, statement or communication.

(b) The Company shall make no written or other public disclosure regarding JJDC or any Affiliate of JJDC without the prior written consent of JJDC, except as may be required by law.

(c) The Company agrees that it will not without the prior written consent of Fidelity, use in advertising, publicity, or otherwise the name of Fidelity, or any Fidelity Investor, or any partner or employee of Fidelity, nor any trade name, trademark, trade device, service mark, symbol or any abbreviation, contraction or simulation thereof owned by Fidelity, or any of their respective Affiliates. The Company further agrees that it shall obtain the written consent of Fidelity prior to the Company's issuance of any public statement detailing the purchase of Shares by the Fidelity Investors pursuant to this Agreement.

(d) The Company agrees that it will not without the prior written consent of T. Rowe Price, use in advertising, publicity, or otherwise the name of T. Rowe Price, or any T. Rowe Price Investor, or any partner or employee of T. Rowe Price, nor any trade name, trademark, trade device, service mark, symbol or any abbreviation, contraction or simulation thereof owned by T. Rowe Price, or any of their respective Affiliates. The Company further agrees that it shall obtain the written consent of T. Rowe Price prior to the Company's issuance of any public statement detailing the purchase of Shares by the T. Rowe Price Investors pursuant to this Agreement.

3.15 Compliance.

(a) The Company shall maintain a compliance program consistent with that set forth in the HHS Office of Inspector General's Compliance Program Guidance, including designation of a compliance officer and the conduct of training and education. Company shall ensure compliance with any applicable healthcare regulations, including without limitation the United States Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301, et al.), Anti-Kickback Statute (42 USC § 1320a-7b(b)) and federal False Claims Act (31 U.S.C. §§ 3729 - 3733), as well as transparency reporting regulations.

(b) The Company shall, by June 30, 2021, establish and maintain a compliance program for compliance with applicable export control, import, economic sanctions, and anti-boycott laws and regulations administered by the U.S. government (and other governments in countries where the Company sells its products, as applicable), including designation of a compliance officer to oversee such a program and the conduct of training and education. The Company shall ensure compliance with any such applicable laws and regulations,

including without limitation the United States Export Administration Regulations ("***EAR***," 15 C.F.R. Part 730-774), International Traffic in Arms Regulations ("***ITAR***," 22 C.F.R. Parts 120-130), and the statutes pursuant to which the EAR and ITAR are promulgated and maintained in effect; the Foreign Trade Regulations ("***FTR***," 15 C.F.R. Part 30); laws and regulations relating to import and customs requirements administered by U.S. Customs and Border Protection ("***CBP***"); economic sanctions laws, regulations, statutes, and orders, including the regulations administered by the U.S. Department of the Treasury, Office of Foreign Assets Control ("***OFAC***," 31 C.F.R., Subtitle B, Chapter V); and anti-boycott laws and regulations set forth in the EAR and Section 999 of the Internal Revenue Code (26 U.S.C. Section 999).

3.16 Termination of Covenants. All covenants of the Company contained in Section 3 of this Agreement (other than Section 3.3) shall expire and terminate as to each Investor upon the earlier of (i) the effective date of the registration statement pertaining to the Initial Offering or the closing of a SPAC Transaction, in each case which is listed on a nationally recognized stock exchange, (ii) when the Company first becomes subject to the periodic reporting requirements of Sections 12(g) or 15(d) of the Exchange Act, or (iii) upon a Liquidation Event (as defined in the Certificate) or a transaction that is deemed to be a Liquidation Event for purposes of Section 3 of the Certificate.

4. RIGHTS OF FIRST REFUSAL.

4.1 Subsequent Offerings. Subject to applicable securities laws, each Investor shall have a right of first refusal to purchase its *pro rata* share of all Equity Securities (as defined below) that the Company may, from time to time, propose to sell and issue after the date of this Agreement. Each Investor's *pro rata* share is equal to the ratio of (a) the number of shares of the Company's Common Stock (including all shares of Common Stock issuable or issued upon conversion of the Shares or upon the exercise of outstanding warrants or options) of which such Investor is deemed to be a holder immediately prior to the issuance of such Equity Securities to (b) the total number of shares of the Company's outstanding Common Stock (including all shares of Common Stock issued or issuable upon conversion of the Shares or upon the exercise of any outstanding warrants or options) immediately prior to the issuance of the Equity Securities. The term "***Equity Securities***" means (i) any Common Stock, Preferred Stock or other security of the Company, (ii) any security convertible into or exercisable or exchangeable for, with or without consideration, any Common Stock, Preferred Stock or other security (including any option to purchase such a convertible security), (iii) any security carrying any warrant or right to subscribe to or purchase any Common Stock, Preferred Stock or other security or (iv) any such warrant or right, other than any Exempted Equity Securities (as defined below).

4.2 Exercise of Rights. If the Company proposes to sell and issue any Equity Securities, it shall give each Investor written notice of its intention, describing the Equity Securities, the price (or an estimated price) and the material terms and conditions upon which the Company proposes to sell and issue such Equity Securities (the "***Notice***"). Each Investor shall have fifteen (15) days from the delivery of the Notice to agree, in writing and delivered to the Company (with email being sufficient) (the "***Exercise Notice***"), to purchase its *pro rata* share of the Equity Securities. Notwithstanding the foregoing, the Company shall not be required to offer,

sell, or issue any Equity Securities to any Investor who would cause the Company to be in violation of applicable federal securities laws by virtue of such offer, sale, or issuance, or any Investor who does not qualify as an "accredited investor" (as defined in Regulation D under the Securities Act).

4.3 Issuance of Equity Securities to Other Persons. If not all of the Investors elect to purchase their *pro rata* share of the Equity Securities, then the Company shall promptly notify in writing (the "***Over-Allotment Notice***") the Investors who elect to purchase their full *pro rata* share of the Equity Securities (each, a "***Fully Exercising Investor***") and shall offer such Fully Exercising Investors the right to acquire such unsubscribed shares of Equity Securities on a *pro rata* basis with respect to all other Fully Exercising Investors. Each Fully Exercising Investor shall have five (5) days after delivery of the Over-Allotment Notice to notify the Company in writing of its election to purchase all or a portion of such Fully Exercising Investor's allotment of the unsubscribed shares of Equity Securities. The Company shall have up to ninety (90) days thereafter to sell and issue to any Person such Equity Securities in respect of which the Investor's rights were not exercised, at a price and upon general terms and conditions not materially more favorable than specified in the Notice. If the Company has not sold such Equity Securities within such ninety (90) day period, the Company shall not thereafter issue or sell any Equity Securities, without first offering such securities to the Investors in the manner provided above.

4.4 Termination and Waiver of Rights of First Refusal. The rights of first refusal established by this Section 4 shall not apply to, and shall terminate upon the earlier of (i) the effective date of the registration statement pertaining to the Initial Offering or a SPAC Transaction, in each case which is listed on a nationally recognized stock exchange or (ii) the closing of a Liquidation Event or a transaction deemed to be a Liquidation Event for purposes of Section 3 of the Certificate.

4.5 Minority Investor Protections. Notwithstanding Section 5.5, the rights of first refusal established by this Section 4 may be amended, or any provision waived with and only with the written consent of the Company and the Investors holding a majority of the Registrable Securities held by all Investors, or as permitted by Section 5.5, except that no such waiver shall be effective unless such waiver, by its terms, applies to all Investors holding Registrable Securities. Notwithstanding the foregoing, if (i) the rights of an Investor to purchase Equity Securities under this Section 4 are waived by other Investors in accordance with Section 5.5 with respect to a particular sale and issuance of Equity Securities (the "***Waiving Investors***"), (A) without such Investor's written consent (with email being sufficient) and (B) without the Company's delivery of the Notice (a "***Waived Minority Investor***"), and (ii) any Waiving Investor or its Affiliates actually purchases Equity Securities in such offering (a "***Participating Investor***"), then the Company shall grant, and hereby grants, each Waived Minority Investor the right to purchase, in a subsequent closing of such offering on substantially the same terms and conditions, a percentage of such Waived Minority Investor's full *pro rata* share of such Equity Securities equal to the highest percentage of the *pro rata* share actually purchased by any Participating Investor (the "***Minority Investor ROFR Right***"). The Minority Investor ROFR Right may be amended, modified, or waived with respect to each Waived Minority Investor only with the written consent (with email being sufficient) of such Waived Minority Investor (it being

understood and agreed that if the Company delivered the Notice to such Waived Minority Investor, and such Waived Minority Investor did not deliver to the Company the Exercise Notice, each in accordance with the time periods set forth in Section 4.2, such Waived Minority Investor shall be deemed to have irrevocably waived its rights of first refusal set forth in this Section 4 with respect to a particular sale and issuance of Equity Securities (including, but not limited to, the Minority Investor ROFR Right)).

4.6 Assignment of Rights of First Refusal. The rights of first refusal of each Investor under this Section 4 may be assigned to (a) a subsidiary, parent, general partner, limited partner, retired partner, director, former director, member or retired member of such Holder that is a corporation, partnership or limited liability company, (b) a member of such Investor's family member or trust for the benefit of an individual Investor, (c) acquires at least 250,000 shares of Preferred Stock (as adjusted for stock splits and combinations) or (d) is an Affiliate of such Investor; *provided*, that, in each case, such assignee becomes a party to this Agreement and the other Related Agreements (as defined in the Purchase Agreement).

4.7 Exempted Securities. The rights of first refusal set forth in this Section 4 shall not apply to (i) any Exempted Securities (as defined in the Certificate) and (ii) any shares of Series G Preferred Stock issued or issuable pursuant to Section 2.3 of the Purchase Agreement (collectively, the "***Exempted Equity Securities***").

5. MISCELLANEOUS.

5.1 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Delaware in all respects as such laws are applied to agreements among Delaware residents entered into and to be performed entirely within Delaware, without reference to conflicts of laws or principles thereof. The parties (a) hereby irrevocably and unconditionally submit to the jurisdiction of the state courts of the State of Delaware and to the jurisdiction of the federal courts located in the State of Delaware for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement, (b) agree not to commence any suit, action or other proceeding arising out of or based upon this Agreement except in the state courts of State of Delaware or the federal courts located in the State of Delaware, and (c) hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court.

5.2 Successors and Assigns. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors, assigns, heirs, executors, and administrators (including any successor of such entity by merger or consolidation, or any Person to which, at the same time, substantially all the business and assets of such entity are being sold, or any Person that is a professional investment entity for the purpose of winding up or restructuring some or all of a transferor's investment portfolio (whether in a particular industry sector or segment or as part of liquidating

its legacy positions)) and shall inure to the benefit of and be enforceable by each Person who shall be a holder of Registrable Securities from time to time; *provided*, *however*, that prior to the receipt by the Company of adequate written notice of the transfer of any Registrable Securities specifying the full name and address of the transferee, the Company may deem and treat the Person listed as the holder of such shares in its records as the absolute owner and holder of such shares for all purposes, including the payment of dividends or any redemption price.

5.3 Entire Agreement. This Agreement and the Exhibits hereto, the Purchase Agreement and the other Related Agreements (as defined in the Purchase Agreement) constitute the full and entire understanding and agreement between the parties with regard to the subjects hereof and no party shall be liable or bound to any other in any manner by any oral or written representations, warranties, covenants and agreements except as specifically set forth herein and therein. Each party expressly represents and warrants that it is not relying on any oral or written representations, warranties, covenants or agreements outside of this Agreement.

5.4 Severability. In the event one or more of the provisions of this Agreement should, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

5.5 Amendment and Waiver. Except as otherwise expressly provided, this Agreement may be amended or modified, and the obligations of the Company and the rights of the Holders under this Agreement may be waived, only upon the written consent of the Company and the holders of a majority of the then-outstanding Registrable Securities. Notwithstanding the foregoing, (i) any amendment or waiver of Section 2.8(b), Section 2.8(d), or this clause (i) shall require the prior written consent of CPMG, Inc. ("***CPMG***") and JJDC, (ii) any amendment or waiver of Section 3.14(a) or this clause (ii) shall require the prior written consent of Viking Global, (iii) any amendment or waiver of Sections 1.2(b)(i) and 3.14(b) or this clause (iii) shall require the prior written consent of JJDC, (iv) any amendment or waiver of Sections 1.2(a)(ii), 1.2(d)(ii), 1.2(f), and 1.2(g), and Sections 2.1(d), 3.3, 5.7 and 5.16, each solely as such sections relate to a Fidelity Investor, and Section 3.14(c) or this clause (iv) shall require the prior written consent of Fidelity, (v) any amendment or waiver of Sections 1.2(a)(iii), 1.2(d)(iii), 1.2(z), and 1.2(aa), and Sections 2.1(d), 3.3 and 5.7, each solely as such sections relate to T. Rowe Price or a T. Rowe Price Investor, and Section 3.14(d) or this clause (v) shall require the prior written consent of T. Rowe Price, and (vi) Exhibit A may be amended to add additional "Investors" in accordance with Section 5.10. For the purposes of determining the number of Holders or Investors entitled to vote or exercise any rights hereunder, the Company shall be entitled to rely solely on the list of record holders of its stock as maintained by or on behalf of the Company.

5.6 Delays or Omissions. It is agreed that no delay or omission to exercise any right, power, or remedy accruing to any party, upon any breach, default or noncompliance by another party under this Agreement shall impair any such right, power, or remedy, nor shall it be construed to be a waiver of any such breach, default or noncompliance, or any acquiescence therein, or of any similar breach, default or noncompliance thereafter occurring. It is further

agreed that any waiver, permit, consent, or approval of any kind or character on any party's part of any breach, default or noncompliance under the Agreement or any waiver on such party's part of any provisions or conditions of this Agreement must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement, by law, or otherwise afforded to any party, shall be cumulative and not alternative.

5.7 Notices. All notices required or permitted hereunder shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the holder at its address appearing on the books of the Company or, as to the Company, the address set forth on the signature page hereto, or, in any case, at such address as such party may designate by ten (10) days advance written notice to the other parties hereto. Each Holder consents to the delivery of any stockholder notice pursuant to the Delaware General Corporation Law, as amended (the "***DGCL***"), by electronic transmission pursuant to Section 232 of the DGCL (or any successor thereto) at the e-mail address set forth below such Holder's name on the signature page or the exhibits hereto, if any, as updated from time to time by notice to the Company (including to any other facsimile number electronic mail address for an Investor that has been provided to the Company for purposes of providing notice pursuant to this Section 5.7), it being understood that if no such facsimile number or electronic email address has been provided to the Company by such Holder, then notice may not be delivered by facsimile or electronic mail, as applicable, to such Holder. To the extent that any notice given by means of electronic transmission is returned or undeliverable for any reason, the foregoing consent shall be deemed to have been revoked until a new or corrected e-mail address has been provided, and such attempted electronic notice shall be ineffective and deemed to not have been given. Each Holder agrees to promptly notify the Company of any change in its e-mail address, and that failure to do so shall not affect the foregoing.

5.8 Attorneys' Fees. In the event that any suit or action is instituted under or in relation to this Agreement, including without limitation to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.

5.9 Titles and Subtitles. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

5.10 Additional Investors. Notwithstanding anything to the contrary contained herein, if the Company shall issue additional shares of its Preferred Stock pursuant to the Purchase Agreement or otherwise, any purchaser of such shares of Preferred Stock shall become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement and shall be deemed an "***Investor***," a "***Holder***" and a party hereunder.

5.11 Counterparts; Electronic Signatures. Where counterparts are permitted according to applicable law, this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument. Where counterparts are not permitted according to applicable law, this Agreement must be executed (i) either in paper form, in as many original copies as there are parties to the agreement, each copy to be signed in full by each party on the same instrument, or (ii) in electronic form through a validated electronic signing software or (iii) by pdf scan signatures, where the electronic version or pdf scan is signed in full by each party on the same electronic instrument. Electronically executed or electronically transmitted (including via email) signatures shall have the full force and effect of original signatures.

5.12 Aggregation of Stock. All shares of Registrable Securities held or acquired by Affiliated entities or persons or persons or entities under common management or control shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

5.13 Pronouns. All pronouns contained herein, and any variations thereof, shall be deemed to refer to the masculine, feminine or neutral, singular or plural, as to the identity of the parties hereto may require.

5.14 Further Assurances. At any time or from time to time after the date hereof, the parties agree to cooperate with each other, and at the request of any other party, to execute and deliver any further instruments or documents and to take all such further action as the other party may reasonably request in order to carry out the intent of the parties hereunder.

5.15 Termination. Except as set forth herein, this Agreement shall terminate and be of no further force or effect upon the earlier of (i) the date three (3) years following the closing of the Initial Offering or a SPAC Transaction in each case which is listed on a nationally recognized stock exchange, or (ii) the closing of a Liquidation Event (as defined in the Certificate) or a transaction that is deemed to be a Liquidation Event for purposes of Section 3 of the Certificate.

5.16 Massachusetts Business Trust. A copy of the Agreement and Declaration of Trust of each Fidelity Investor or any affiliate thereof is on file with the Secretary of State of the Commonwealth of Massachusetts and notice is hereby given that this Agreement is executed on behalf of the trustees of such Fidelity Investor or any affiliate thereof as trustees and not individually and that the obligations of this Agreement are not binding on any of the trustees, officers or stockholders of such Fidelity Investor or any affiliate thereof individually but are binding only upon such Fidelity Investor or any affiliate thereof and its assets and property.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

COMPANY:

PROCEPT BIOROBOTICS CORPORATION

By: /s/ Reza Zadno
Title: Chief Executive Officer and President

Address:
900 Island Dr, Redwood City, CA 94065
Attn: Alaleh Nouri, General Counsel

With a copy (which shall not constitute notice) to:

Latham & Watkins LLP
140 Scott Drive
Menlo Park, CA 94025
Attn: Ben Potter

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

JOHNSON & JOHNSON INNOVATION – JJDC, INC.

By: /s/ Naom A. Krantz

Name: Naom A. Krantz

Title: Vice President

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THE LAURA DAWN KOMAR

REVOCABLE TRUST FOR LAURA

DAWN KOMAR

By: /s/ Laura Dawn Komar

Name: Laura Dawn Komar

Title: Investor

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

KT4 PARTNERS, LLC

By: /s/ Marc Abramowitz

Name: Marc Abramowitz

Title: Managing Member

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THSDFS LLC SERIES 11

By: /s/ Stanley F. Druckenmiller

Name: Stanley F. Druckenmiller

Title: Managing Member

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

PERCEPTIVE LIFE SCIENCES MASTER FUND, LTD.

BY: PERCEPTIVE ADVISORS, LLC

By: /s/ James H. Mannix

Name: James H. Mannix

Title: COO

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

SC LEV

By: /s/ Jacques Lewiner

Name: Jacques Lewiner

Title: Director

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

VIKING GLOBAL OPPORTUNITIES ILLIQUID INVESTMENTS SUB-MASTER LP

By: Viking Global Opportunities Portfolio GP LLC, its general partner

By: /s/ Matthew Bloom

Name: Matthew Bloom

Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

ANTOINE CHAYA

/s/ Antoine Chaya

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THORSTEN BACH

/s/ Thorsten Bach

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

TROY CLENET

/s/ Troy Clenet

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

ROBERT BROWNELL

/s/ Robert Brownell

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

SIMONA DORF

/s/ Simona Dorf

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

SASKIA TERZANI

/s/ Saskia Terzani

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

OLIVIA MA

/s/ Olivia Ma

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

PATRICK & BETTY GALLAGHER

By: /s/ Patrick Gallagher

Name: Patrick Gallagher

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

LAWRENCE DEMARCO

/s/ Lawrence DeMarco

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

CHRISTIAN DE JUNIAC

/s/ Christian De Juniac

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

CHRISTOPHER FITZWILLIAM-LAY

/s/ Christopher Fitzwilliam-Lay

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:
CHRISTOPHER C. DEWEY TRUST UNDER AGREEMENT DATED MAY 3, 2018

By: /s/ Christopher C. Dewey

Name: Christopher C. Dewey

Title: Trustee

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

ANTAL DESAI

/s/ Antal Desai

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

DIANA BOWES

/s/ Diana Bowes

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

DAVID CABOT

/s/ David Cabot

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

JON BUDISH

/s/ Jon Budish

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THE CONCI FAMILY TRUST

By: /s/ Robin Conci

Name: Robin Conci

Title: Trustee

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THE HARRIS TRUST DATED 3/10/2016

By: /s/ Taylor Harris

Name: Taylor Harris

Title: Trustee

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

DESAI 2010 CHILDREN'S TRUST

By: /s/ Nicholas Hecker

Name: Nicholas Hecker

Title: Trustee

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

WILLIAM FACTEAU

/s/ William Facteau

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

WARREN WALKER

/s/ Warren Walker

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

GC&H INVESTMENTS, LLC

By: GC&H Management, LLC

By: /s/ Melissa Rogue

Name: Melissa Rogue

Title: Authorized Signatory

GC&H INVESTMENTS A1, L.P.

By: GC&H Management, LLC

By: /s/ Melissa Rogue

Name: Melissa Rogue

Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

T. ROWE PRICE HEALTH SCIENCES FUND, INC.
TD MUTUAL FUNDS - TD HEALTH SCIENCES FUND
T. ROWE PRICE HEALTH SCIENCES PORTFOLIO
Each account, severally not jointly

By: T. Rowe Price Associates, Inc., Investment Adviser or Subadviser, as applicable

By: /s/ Andrew Baek

Name: Andrew Baek

Title: Authoried Signatory

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

HOWELL D. WOOD AND LINDA KAY WOOD

By: /s/ Howell D. Wood

Name: Howell D. Wood

By: /s/ Linda Wood

Name: Linda Wood

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

WHITE TAILED PTARMIGAN, LP

By: /s/ John E. Bateman

Name: John Bateman

Title: Chief Operating Officer, CPMG, Inc.,
its General Partner

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THE 2:22 DNA TRUST

By: /s/ Antal Desai

Name: Antal Desai

Title: Trustee

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

ABRAMOWITZ 2012 IRREVOCABLE TRUST

By: /s/ Sandra M. Clark

Name: Sandra M. Clark

Title: Trustee

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

BRADFORD NEWMAN

/s/ Bradford Newman

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

DAMAN SANDERS

/s/ Daman Sanders

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THOMAS J. FOGARTY, ROSALEE MAE FOGARTY, AND JONATHAN DAVID FOGARTY, TRUSTEES OF THE FOGARTY FAMILY REVOCABLE TRUST DATED SEPTEMBER 14, 1971

By: /s/ Jon Fogarty

Name: Jon Fogarty

Title: Trustee

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

FIDELITY MT. VERNON STREET TRUST
FIDELITY GROWTH COMPANY FUND

By: /s/ Chris Maher

Name: Chris Maher

Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

FIDELITY MT. VERNON STREET TRUST
FIDELITY GROWTH COMPANY K6
FUND

By: /s/ Chris Maher

Name: Chris Maher

Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

FIDELITY MT. VERNON STREET TRUST
FIDELITY SERIES GROWTH COMPANY
FUND

By: /s/ Chris Maher

Name: Chris Maher

Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

FIDELITY SELECT PORTFOLIOS:
SELECT MEDICAL TECHNOLOGY AND
DEVICES PORTFOLIO

By: /s/ Chris Maher

Name: Chris Maher

Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THE 2002 ALICE H. HANLEY DESCENDANTS TRUST

By: /s/ Rebekah Mercer

Name: Rebekah Mercer

Title: Trustee

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

MATT SPRINKEL

/s/ Matt Sprinkel

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

SEAN SPRINKEL

/s/ Sean Sprinkel

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

FREDERIC H. MOLL

/s/ Frederic H. Moll

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

RICARDO R. GONZALEZ

/s/ Ricardo R. Gonzalez

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THE ALJURI FAMILY TRUST
U/A/D 8-22-2012

By: /s/ Nikolai Aljuri

Name: Nikolai Aljuri

Title: Trustee

THE ALJURI VENTURE TRUST, U/T/A
12/17/2020

By: /s/ Ana Mezei de Aljuri

Name: Ana Mezei de Aljuri

Title: Trustee

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THE PERKINS FAMILY REVOCABLE TRUST DATED FEBRUARY 28, 1986

By: /s/ Rodney Perkins

Name: Rodney Perkins

Title: Trustee

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

HANNA VENUTRE HOLDINGS, LLC

By: /s/ Lorraine Aljuri

Name: Lorraine Aljuri

Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused this **AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** to be executed by their duly authorized representatives, as of the date set forth in the first paragraph hereof, each party acknowledging receipt of one copy. The parties hereto agree to execute this Agreement in paper form or by way of an electronic signature, and agree this shall constitute a valid and enforceable agreement between the parties.

INVESTORS:

THE SIMONA DORF FAMILY TRUST,
U/T/A 12/7/2020

By: /s/ Mark Kleinman

Name: Mark Kleinman

Title: Vice President

Exhibit 21.1

LIST OF SUBSIDIARIES
OF PROCEPT BIOROBOTICS CORPORATION

Subsidiaries	Jurisdiction of Incorporation or Organization
PROCEPT BioRobotics GmbH	Germany
PROCEPT BioRobotics UK Ltd.	United Kingdom

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the use in this Registration Statement on Form S-1 of PROCEPT BioRobotics Corporation of our report dated June 25, 2021, except for the effects of the par value change discussed in Note 2 to the consolidated financial statements, as to which the date is August 18, 2021, relating to the financial statements of PROCEPT BioRobotics Corporation, which appears in this Registration Statement. We also consent to the reference to us under the heading “Experts” in such Registration Statement.

/s/ PricewaterhouseCoopers LLP

San Jose, California

August 18, 2021